

Exhibit “A”

Part 2 of 2

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<p style="text-align: right;">102</p> <p>1 Q. And when you say all the depositions, 2 you mean the entire deposition transcripts? 3 A. Yes. 4 Q. When you were here and you read 5 portions of the deposition transcripts, how were 6 those portions picked out? 7 A. Just leafed through it. There was no 8 direction of -- as to which section to look at. I 9 read some of the introduction and what the -- who 10 the person was and whether or not I felt it would be 11 of interest. 12 If there was any doubt, I copied it 13 and read it back at my office. 14 Q. Did you follow that same procedure 15 with regard to the last entry, the bills of lading, 16 invoices, correspondence? 17 A. Yes. 18 Q. You were provided with the entire 19 file and you reviewed -- 20 A. I was provided with a file, and then 21 I looked through it, and a portion of it was copied 22 and sent to me. 23 Q. At your direction? 24 A. At my direction, correct. 25 Q. You had said earlier that you</p>	<p style="text-align: right;">104</p> <p>1 I was dealing with the -- I did a similar query to 2 the Pennsylvania state library, and the Pennsylvania 3 DEP. 4 Q. And just focusing on the New Jersey 5 DEP for a moment, which, if any, of the publications 6 the librarian identified for you did you then refer 7 to in creating a report? 8 A. The two reports to the Congress that 9 we mentioned, and soon we'll go over. 10 Q. And any other publications? 11 A. No. I went to look at all the 12 publications at the librarian's office at the DEP, 13 and those are the only two that I found relevant. 14 Q. Did you review the hazardous waste 15 regulations of New Jersey for the mid-1970's time 16 period as well? 17 A. Yes. 18 Q. And how did you obtain those? 19 A. It's one of the books on my book 20 shelf. 21 Q. From that period? 22 A. Yes. 23 Q. In what case or in what situation had 24 you come to be familiar with the Waste Age 25 periodical?</p>
<p style="text-align: right;">103</p> <p>1 contacted some -- I think -- I don't know if you 2 said New Jersey DEP, but some regulatory agencies to 3 get materials from them in preparation for the 4 report. 5 Do you recall the complete list of 6 things that you were seeking from the New Jersey 7 DEP? 8 A. The sequence that occurred is that I 9 actually contacted the state library first, looking 10 for a journal called Waste Age that I had found in a 11 previous work to be useful for finding out the 12 state-of-the-art of a particular -- at a particular 13 time frame. 14 The librarian said they did not have 15 Waste Age, but she did a key word search through her 16 files for similar materials, and came back with a 17 list of 20 or so items -- just the titles and the 18 authors of 20 or so items for me to pick and choose 19 from. 20 Q. And what was -- were you looking for 21 information about what was state-of-the-art for what 22 time period? 23 A. The 1970's. 24 Q. In New Jersey? 25 A. New Jersey or Pennsylvania, but since</p>	<p style="text-align: right;">105</p> <p>1 A. It was a project that dealt with the 2 discharge of hazardous waste at a farm in South 3 Jersey in the -- I don't remember the time frame, 4 but it was -- it was, you know, a decade or two ago, 5 and Waste Age -- I remember reading articles from 6 Waste Age that talked about what folks were doing 7 during that particular time frame contemporaneous 8 with the journal article to how they were managing 9 hazardous waste. 10 So this was from a project maybe ten 11 years ago. So when this project came along, I said 12 maybe I can look through the Waste Age for that time 13 period and learn a little bit, but I was not able to 14 obtain those copies. 15 Q. Is the case that you're describing in 16 that chart at the end of Appendix A, do you recall 17 what the name of the case was? 18 A. I was not the expert. I was 19 assisting the president of the company. He was the 20 expert. 21 Q. All right. Any other documents that 22 you either requested or looked for in connection 23 with writing this report? 24 A. I don't believe so, no. 25 Q. And you mentioned you tried to</p>

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<p style="text-align: right;">106</p> <p>1 contact Pennsylvania, or you did contact PADEP to</p> <p>2 get some materials.</p> <p>3 What were the list of materials that</p> <p>4 you were requesting from PADEP?</p> <p>5 A. The request centered around the --</p> <p>6 any regulation or guidance documents from the</p> <p>7 1970's. I don't remember the exact wording of the</p> <p>8 request.</p> <p>9 Q. And I think you said that you -- that</p> <p>10 they did not send that material in time for you to</p> <p>11 use it in connection with this report?</p> <p>12 A. That's correct. I didn't get it</p> <p>13 until a week or two after the report was produced.</p> <p>14 Q. Okay. Did you rely on anything with</p> <p>15 regard to Pennsylvania hazardous waste regulations</p> <p>16 in writing your report?</p> <p>17 A. There's some discussion of</p> <p>18 Pennsylvania's hazardous waste program at that time,</p> <p>19 in one, or perhaps even both, of those reports to</p> <p>20 Congress, and I relied on that.</p> <p>21 Q. Did you ever -- did you rely on the</p> <p>22 Pennsylvania hazardous waste regulations from that</p> <p>23 mid-1970 time period?</p> <p>24 A. No.</p> <p>25 Q. Were you familiar with the</p>	<p style="text-align: right;">108</p> <p>1 Q. Did you talk with any company --</p> <p>2 AETC, I should say, representatives in connection</p> <p>3 with preparing the report?</p> <p>4 MR. BARNES: Objection, asked and</p> <p>5 answered.</p> <p>6 MS. MOONEY: Did I ask that?</p> <p>7 A. No.</p> <p>8 Q. On page one, the first sentence of</p> <p>9 the third paragraph there that begins with</p> <p>10 "nonetheless", do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. This says, nonetheless, counsel has</p> <p>13 requested that Ransom assess the actions of AETC in</p> <p>14 providing brokering services to hazardous waste</p> <p>15 generators whose waste was allegedly and improperly</p> <p>16 disposed at the site in the 1976 to 1977 -- I assume</p> <p>17 there's a typo there -- you meant time period?</p> <p>18 A. Oh, yes.</p> <p>19 Q. Okay. But leaving that aside, can</p> <p>20 you -- I'd like to ask you a few questions about</p> <p>21 exactly what you mean when you state this sentence.</p> <p>22 When you say, assess the actions of</p> <p>23 AETC, what exactly do you mean?</p> <p>24 A. Well, my intentions were to show that</p> <p>25 AETC was following the regulations promulgated at</p>
<p style="text-align: right;">107</p> <p>1 Pennsylvania hazardous waste regulations from the</p> <p>2 mid-1970 time period prior to writing this expert</p> <p>3 report?</p> <p>4 A. No.</p> <p>5 Q. Anything else you relied on in the</p> <p>6 Pennsylvania section of your expert report?</p> <p>7 A. Not that I could recall.</p> <p>8 Q. When you reviewed the deposition</p> <p>9 transcripts listed in Appendix B, did you also</p> <p>10 review the exhibits to the depositions?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know whether or not you had</p> <p>13 the complete set of the exhibits to those</p> <p>14 depositions?</p> <p>15 A. I believe I did, because I would</p> <p>16 usually look at the transcript's second or third</p> <p>17 page, which would have a list of the exhibits, and</p> <p>18 I'd try to match them up.</p> <p>19 Maybe I was missing one or two. I</p> <p>20 don't recall. But I thought I had them all, 'cause</p> <p>21 if I didn't, I would have probably called Mr. Sabino</p> <p>22 up and had him chase it down.</p> <p>23 Q. Okay. Did you conduct any interviews</p> <p>24 in connection with the expert report?</p> <p>25 A. No.</p>	<p style="text-align: right;">109</p> <p>1 the time that -- during this time period, and they</p> <p>2 were following best management practices during this</p> <p>3 time period.</p> <p>4 Q. Okay. And when you say, in this</p> <p>5 sentence, brokering services, what do you mean by</p> <p>6 that?</p> <p>7 A. Brokering services in the context</p> <p>8 that they assisted the two hazardous waste</p> <p>9 generators in finding transporter and disposal sites</p> <p>10 for their hazardous waste.</p> <p>11 Q. Was the concept of brokering waste a</p> <p>12 concept with which you were familiar prior to</p> <p>13 becoming involved in this case?</p> <p>14 A. Yes.</p> <p>15 Q. And how did you first hear of this</p> <p>16 notion of brokering waste?</p> <p>17 A. I don't know when the first I've</p> <p>18 heard of it, but it's fairly common in our business</p> <p>19 to have a broker -- an expert in the field of</p> <p>20 hazardous waste management, to assist either</p> <p>21 companies or consulting firms in proper business</p> <p>22 disposal of material.</p> <p>23 Q. Do you know, when you say it's fairly</p> <p>24 common, do you mean today?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">110</p> <p>1 Q. And what about in the mid-1970 -- or 2 let's be more specific -- the 1976/'77 time period? 3 A. It's a complex question. That's why 4 I've hesitated. But the -- at the time that the -- 5 of the 1976/1977 time frame, there were a -- there 6 was a swing in the -- or a change in the type of -- 7 in hazardous waste management. 8 A lot of facilities became closed. 9 New facilities were popping up. And the answer to 10 the question is that I have read about firms that 11 did brokering. 12 Again, that time period is not the 13 time period I was involved with this field. But 14 between this case and other cases that I've worked 15 at, it was common, in my knowledge, for there to be 16 companies that assisted generators in finding places 17 for their hazardous waste to be disposed. 18 Q. When you say facilities were popping 19 up, what facilities are you talking about? 20 A. Hazardous waste treatment facilities 21 or disposal facilities. 22 Q. You mentioned that, in the 1976 to 23 1977 period, you weren't familiar with brokering of 24 hazardous waste in particular. 25 When did you first kind of become</p>	<p style="text-align: right;">112</p> <p>1 MS. MOONEY: Can you read it back? 2 (The following question is read back: 3 "Question: Do you consider yourself 4 to have specialized knowledge or experience in 5 brokering services that were provided during the 6 1976/1977 time period?") 7 MR. BARNES: I withdraw the 8 objection. To the extent you can answer. 9 A. For that narrow a question, during 10 that time frame, I would say no, I don't have 11 special expertise, other than what I've read about. 12 However, the concept of brokering is 13 not a complex concept in terms of how the company 14 assists -- a brokerage company or brokering company 15 assists generators to match up with disposal 16 facilities. 17 Q. Do you mean that, in understanding 18 brokering services, no specialized knowledge or 19 experience is necessary? 20 A. Well, not in the context of actually 21 being a broker, but to understand what they do, I 22 don't think you need specialized knowledge. 23 Q. Okay. Going back to the report, the 24 first sentence of the fourth paragraph on that first 25 page, which begins, Ransom's opinions -- do you see</p>
<p style="text-align: right;">111</p> <p>1 aware that this was a practice in the hazardous 2 waste management field? 3 A. Probably in the late seventies or 4 early eighties, when I started to get more involved 5 with the -- the regulatory program at DEP, the water 6 programs that we talked about earlier and the 7 overlaps between the water and hazardous waste 8 programs. I came to understand how things were done 9 in the real world. 10 Q. Have you ever rendered an expert 11 opinion regarding waste brokering in any other case? 12 A. I don't believe so, no. 13 Q. I can probably ascertain the answer 14 to this from your previous answers, but let me ask 15 it anyway. 16 Do you consider yourself to have 17 specialized knowledge or experience in brokering 18 services that were provided during the 1976/1977 19 time period? 20 MR. BARNES: Objection as to form. I 21 think it's the same problem we had before with the 22 use of the term "expert". 23 MS. MOONEY: I didn't use the term 24 "expert". 25 MR. BARNES: I'm sorry.</p>	<p style="text-align: right;">113</p> <p>1 that? 2 A. Yes. 3 Q. Is the "our" -- o-u-r -- in that 4 sentence kind of the royal we, or is it -- do you 5 mean that to refer to you? 6 A. It was more the royal we, but I'm the 7 author of the report. So I suppose I am -- a more 8 elegant way would have been -- upon my knowledge 9 would have been more appropriate. 10 Q. What's more accurate in your opinion? 11 A. Well, I'm the author of the report. 12 I may have discussed -- in fact, I do recall 13 discussing Pennsylvania regulations with other 14 people in the office, but I did find the historical 15 information that I was seeking. 16 Q. Did you consult with other people 17 about the requirements, under the Pennsylvania 18 regulations, for hazardous waste during that time? 19 A. I asked people about it, but there 20 was no information to consult about. There was -- I 21 was looking for information that somebody may have 22 had on their bookshelf -- similar that I have with 23 New Jersey rules -- that I was trying to get from 24 the lib -- state library of Pennsylvania or from 25 PADEP but was unsuccessful.</p>

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<p style="text-align: right;">114</p> <p>1 Q. When you use the "our", do you 2 mean -- who are you referring to, I guess, with 3 that, our knowledge? 4 Is it you and Mr. Waring? Is it 5 Ransom? Is it some other combination of people? 6 A. As I say, because there was -- 7 specifically about the Pennsylvania regulations, I 8 did not get much information from anybody else. The 9 federal and New Jersey regulations were -- and what 10 I do know about the Pennsylvania rules was mine -- 11 was my knowledge. 12 Q. Okay. What specialized knowledge 13 about the federal hazardous waste regulations do you 14 have? 15 A. Well, I feel I have a special 16 expertise in reviewing regulations and understanding 17 their purpose. So when I do review a set of 18 historical regulations, I can understand the 19 purpose, the goal -- the regulatory goal of the 20 regulations and how it's to be implemented. 21 So in that context, I can read any 22 set of regulations, whether it be hazardous waste or 23 any type of environmental regulation -- I guess I 24 should clarify -- and understand their purpose. 25 I've learned that to be a specialized expertise.</p>	<p style="text-align: right;">116</p> <p>1 understanding and interpreting environmental regs, 2 what -- do you consider to have any more 3 particularized specialized knowledge with regard to 4 the Pennsylvania regulations? 5 A. Well, other than your caveat, no. 6 Q. Okay. Other than the positions that 7 you held at New Jersey DEP, that we discussed in 8 detail before lunch, and I guess the environmental 9 consulting positions that we discussed before lunch, 10 what -- is there any other specific professional 11 experience you have that forms the basis of the 12 opinions that you render in this report? 13 A. Well, without being contradictory, 14 that kind of covers my whole career. 15 Q. I understand. I'm trying to make 16 sure I cover it. 17 A. But the answer is no. But I feel 18 that I had the expertise to do the job. 19 Q. Okay. Going on to section two of 20 your report, which starts on page two, the second 21 sentence, where you talk about your broad range of 22 technical and regulatory expertise in these 23 different areas, does the work experience that we've 24 already gone through, that you had at New Jersey DEP 25 and the various environmental consulting positions,</p>
<p style="text-align: right;">115</p> <p>1 Because even people who have been in the 2 environmental field as engineers or geologists tend 3 to shy away from regulatory documents 'cause they're 4 difficult to understand. 5 Q. Yes, they are. So one area of 6 expertise that I think you just described was in 7 understanding and interpreting environmental 8 regulations -- 9 A. Yes. 10 Q. -- just broadly? 11 A. Yes. 12 Q. Not hazardous waste, per se, but any 13 environmental regulation; is that right? 14 A. Fair enough. Sure. 15 Q. And with regard to New Jersey 16 environmental regulations in particular, I would 17 assume that you feel you have a special area of 18 expertise? 19 A. Well, sure, 'cause that is the state 20 rules that I am most familiar with. 21 Q. We already went over the more 22 specific areas of New Jersey regulations that you 23 consider yourself to have specialized knowledge in, 24 I think. 25 Other than this general expertise in</p>	<p style="text-align: right;">117</p> <p>1 form the basis of that range of technical and 2 regulatory expertise? 3 A. Yes. 4 Q. Okay. When you say, in the second 5 sentence of the first paragraph on page two, that 6 waste disposal requirements are one of the areas 7 where you have technical and regulatory expertise -- 8 and keeping in mind that we already went through 9 your work experience -- what in particular, in that 10 work experience, would constitute this area of 11 technical and regulatory expertise? 12 A. Well, as you say, we have gone 13 through it with the disposal of liquid hazardous 14 waste, with the disposal of residuals in landfills, 15 with current hazardous waste management 16 requirements. 17 Q. I am sorry, current hazardous waste 18 management requirement -- 19 A. Yes. 20 Q. -- today? 21 A. Yes. 22 Q. Are you thinking of your 23 environmental consulting experience in that regard? 24 A. Both, but we talked about the 25 experience with the client, who's the hazardous</p>

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<p style="text-align: right;">118</p> <p>1 waste treatment, and the storage and disposal 2 facility. 3 So having that type of client makes 4 you understand all the different requirements that 5 they are subject to, and so I feel I have an 6 expertise in that. 7 Q. Got you. And that was -- I don't 8 remember what you said -- it was the 1990's? 9 A. It was mid-nineties, yes. 10 Q. You detail, in the second paragraph 11 of section two, some positions that you held in New 12 Jersey DEP. 13 Are the positions that we spoke about 14 earlier today all -- did we cover everything that 15 you referred to here in the second paragraph? 16 A. Yes. 17 Q. And with regard to the last sentence 18 of the second paragraph on page two, did our prior 19 discussion that covered different duties that you 20 had in New Jersey DEP, is that subsumed within the 21 second sentence of the second paragraph here on page 22 two? 23 Did we cover all the ways in which 24 you directed or assisted development in the 25 regulation of new programs?</p>	<p style="text-align: right;">120</p> <p>1 factual basis. 2 Q. And I think you just said this, but 3 is it fair to say that this is merely a summary of 4 information that was provided in some of those 5 documents in Appendix B? 6 A. Correct. 7 Q. Does any specialized knowledge or 8 experience on your part underlie any of the 9 statements you make in section three? 10 MR. BARNES: Can you repeat that 11 question? 12 MS. MOONEY: Does any specialized 13 knowledge or experience on Mr. Goldstein's part 14 underlie any of these statements made in section 15 three? 16 Rather than go through this line by 17 line, if you have an objection, we can work it out, 18 but, you know, I'd rather go by section than line by 19 line. 20 A. No. 21 Q. Okay. Do you have any firsthand 22 knowledge of any of the events or activities 23 described in section three? 24 A. No. 25 Q. Okay. In the second paragraph on</p>
<p style="text-align: right;">119</p> <p>1 A. That sentence is subsumed by the 2 discussion we had earlier about my work experience. 3 Q. All right. If you turn to page -- 4 let's turn to page three, which is the beginning of 5 section three in your report. 6 The first sentence, under the 7 heading, factual background, says, the following 8 section is provided for context. 9 What exactly do you mean here? 10 A. Well, the discussion in the rest of 11 the report would make more sense to a reader if 12 there was some context of the background of the 13 issue. So I summarize the issue the best I could in 14 the short report and presented it in section three. 15 Q. What are the factual bases of the 16 statements you make in section three here? 17 A. The document list that is in Appendix 18 B. 19 Q. Okay. Any other factual bases other 20 than that? 21 You can take your time looking 22 over -- when I refer to things in different 23 sections, take your time reviewing it, as long as 24 you need. 25 A. No, it's -- the document list is the</p>	<p style="text-align: right;">121</p> <p>1 page three, the fourth sentence, which begins, AETC 2 brokered business deals -- do you see that? 3 A. Yes. 4 Q. There's no footnote here. What -- if 5 you recall, what is the factual basis of this 6 statement here? 7 A. Well, the deposition testimony of the 8 two AETC employees or partners. I believe there was 9 also correspondence between AETC and Ashland and 10 AETC and Diaz concerning establishing the business 11 arrangement. 12 I don't recall anything else. 13 Q. And does -- when you say brokering 14 business deals, I think you testified previously as 15 to your understanding of the term, brokering waste. 16 Does this "brokering business deals" 17 phrase mean anything different than that? 18 A. No. 19 Q. The sentence -- it's kind of in the 20 middle towards -- it's the sixth sentence. It's a 21 little past the middle, in the second paragraph on 22 page three, it begins, unbeknownst to these two 23 generators -- do you see that sentence? 24 A. Okay. Yes. 25 Q. What is the factual basis for this</p>

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<p style="text-align: right;">122</p> <p>1 statement?</p> <p>2 A. I believe it's in -- I believe it's</p> <p>3 in the -- one of the exhibits to the summary --</p> <p>4 motion for summary judgment, and it may be also in</p> <p>5 the interrogatories of -- I don't recall if it's the</p> <p>6 defendant's answers or the plaintiff's answers. But</p> <p>7 I recall that that was one of the sources of it.</p> <p>8 I also believe that one of the --</p> <p>9 several of the exhibits to deposition testimony</p> <p>10 referred to some of the EPA notices in the early</p> <p>11 nineties, when they were trying to establish who the</p> <p>12 PRPs were, and they would send notices to the</p> <p>13 different PRPs, and I think AETC got several of</p> <p>14 these notices, and I think some of that factual</p> <p>15 basis is there, too.</p> <p>16 Q. Okay. So this wasn't an independent</p> <p>17 conclusion on your part, is that right?</p> <p>18 MR. BARNES: Objection as to form.</p> <p>19 I'm not sure I follow what you're asking.</p> <p>20 Q. Well, did you use any independent</p> <p>21 methodology or analysis to arrive at this</p> <p>22 conclusion, or was it merely a summary of something</p> <p>23 that was contained in either the exhibits, as you</p> <p>24 mentioned, or the general notice response?</p> <p>25 I'm just trying to ascertain whether</p>	<p style="text-align: right;">124</p> <p>1 it proper or improper. It could be either. The</p> <p>2 state-of-the-art is just what happened. Some people</p> <p>3 did it properly and some people did not.</p> <p>4 Q. I guess my understanding of the term</p> <p>5 state-of-the-art -- and I could be wrong -- is more</p> <p>6 what's the best in terms of compliance out there.</p> <p>7 If you have a different</p> <p>8 understanding, I should probably establish that</p> <p>9 early on. It sounds like you do.</p> <p>10 A. Well, it was not necessarily the</p> <p>11 intention to show the best of the activities, but to</p> <p>12 show the spectrum of activities that took place in</p> <p>13 hazardous waste management, and how it -- the</p> <p>14 regulatory program evolved.</p> <p>15 Q. So when you have section four,</p> <p>16 state-of-the-art of hazardous waste management, and</p> <p>17 then you proceed to discuss, in a chronological way,</p> <p>18 programs in subsections of section four, when you</p> <p>19 say state-of-the-art, are you saying that, for each</p> <p>20 of these time periods, that you treat</p> <p>21 state-of-the-art of hazardous waste management is</p> <p>22 what who was doing?</p> <p>23 I guess I don't understand what the</p> <p>24 touchstone for state-of-the-art is. If it's just</p> <p>25 kind of what everyone was doing in their different</p>
<p style="text-align: right;">123</p> <p>1 or not you have some independent knowledge in</p> <p>2 forming this statement.</p> <p>3 A. No, I don't have any independent</p> <p>4 knowledge. It came from the documents reviewed.</p> <p>5 Q. Okay. Turning to section four,</p> <p>6 starting on page four, at the top of this page, it</p> <p>7 says, 4.0, state-of-the-art of hazardous waste</p> <p>8 management.</p> <p>9 What do you mean by state-of-the-art?</p> <p>10 A. State-of-the-art, to me, means the</p> <p>11 way things worked in hazardous waste management</p> <p>12 what type of regulatory program, what type of</p> <p>13 compliance was there, what type of activities did</p> <p>14 people engage in.</p> <p>15 Q. When you say what types of activities</p> <p>16 people engaged in, do you mean any activities they</p> <p>17 engaged in or the best -- the best management</p> <p>18 practices with regard to the management of hazardous</p> <p>19 waste during this time?</p> <p>20 A. Well, I think that any activity that</p> <p>21 a generator, transporter or treatment storage or</p> <p>22 disposal facility took -- that that occurred during</p> <p>23 that time frame.</p> <p>24 Q. Can you be more specific than any?</p> <p>25 A. Well, you kind -- the question, was</p>	<p style="text-align: right;">125</p> <p>1 waste --</p> <p>2 A. Well, the report obviously speaks for</p> <p>3 itself. It's a focus, in section four, about the</p> <p>4 regulatory programs in place at the time, and why</p> <p>5 certain regulations evolved the way they did.</p> <p>6 State-of-the-art is -- that's my use</p> <p>7 of the term. Maybe state of regulatory history</p> <p>8 might have been a little bit more narrow way of</p> <p>9 describing it. But what I have in the section is a</p> <p>10 description of the evolution of the regulatory</p> <p>11 program.</p> <p>12 Q. Okay. So when you say</p> <p>13 state-of-the-art of the hazardous waste management,</p> <p>14 do you mean anything different than what the</p> <p>15 regulations required at the relevant time?</p> <p>16 A. What regulations meant at any</p> <p>17 particular time and how they evolved over time, but</p> <p>18 yes, I agree with your -- the way you phrased the</p> <p>19 question.</p> <p>20 Q. Okay. I'm going to ask you a series</p> <p>21 of questions that are going to be redundant</p> <p>22 pertaining to these different subsections and --</p> <p>23 MR. BARNES: We're at about an hour</p> <p>24 since we came back from lunch. If this is a natural</p> <p>25 breaking point --</p>

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<p style="text-align: right;">126</p> <p>1 MS. MOONEY: That's fine. 2 (Recess taken.) 3 Q. I'm going to be going through, with 4 you, different sections in section four and in 5 section five and section six as well. 6 I'm going to be asking you a series 7 of questions that are redundant of each other, but I 8 need to get answers to these questions for the 9 different subsections. 10 So it may be that you -- and we'll 11 see how this develops -- but you might find yourself 12 answering the same thing over and over, which is 13 fine. 14 But let me just start, and I'm going 15 to ask you these questions, and I'll be asking them 16 in different sections and in different -- in 17 subsequent sections as well. 18 For section 4.1, which begins on page 19 four of your report, and is headed, national 20 program, other than the documents that you cite here 21 in the footnotes for section 4.1, what are the 22 factual bases of the statements that you make here 23 in section 4.1? 24 Let me also say, take as long as you 25 need looking through section 4.1 before you answer</p>	<p style="text-align: right;">128</p> <p>1 call -- the sentences that connect different 2 thoughts. 3 Q. Well, for example, let's look at the 4 second paragraph on page four. The second sentence 5 in that paragraph says, few controls existed over 6 hazardous waste. 7 What's the factual basis of that 8 statement? 9 A. I think part of it is the reports 10 that are footnoted earlier and later, that discuss 11 this issue, and part of it is my own knowledge. 12 Q. And when you say your own knowledge, 13 what do you mean? 14 A. Well, I -- from about the late 15 seventies onward, I was -- had knowledge of the 16 regulation of a facility based upon my work at the 17 DEP. And even if you're not in a particular section 18 of the department, you know what's going on. 19 You read the paper. You know why 20 different problems occur. So that's part of my 21 personal knowledge. 22 Q. And -- all right. This section 4.1 23 deals with state-of-the-art of hazardous waste 24 management in the 1970's from a national -- on a 25 national level, is that right?</p>
<p style="text-align: right;">127</p> <p>1 the question. 2 A. Well, other than the list of the 3 documents that are listed in Appendix B or 4 attachment B, other factual bases, some of this is 5 based on my own personal knowledge. 6 As we went through my work history, I 7 talked about different overlaps of the programs. So 8 I have some familiarity with the -- some of the 9 conditions discussed here. 10 Q. Okay. Is it possible for you to 11 identify the statements you make that come from your 12 personal knowledge of whatever issues at hand -- let 13 me ask this: For the statements that you make in 14 section 4.1 that are footnoted, are those 15 statements -- the factual bases for those statements 16 the footnote? 17 A. Yes, although I may have some 18 independent knowledge of it. But yes, I cited the 19 source of the information. 20 Q. Okay. And for the statements that do 21 not have a footnote, is it more likely to be the 22 case that those are just statements that the factual 23 bases would be your personal knowledge of the issue 24 at hand? 25 A. Yes, or might be -- what do they</p>	<p style="text-align: right;">129</p> <p>1 A. Yes. 2 Q. Does any specialized knowledge or 3 experience on your part underlie the statements you 4 make regarding the national program of hazardous 5 waste management in 1970's? 6 A. Well, sure. I mean, I -- I was 7 involved with regulatory oversight during some of 8 this time period. 9 I remember the RCRA regulations being 10 promulgated by EPA. I remember the -- well, the 11 consternation during this time period, between the 12 time RCRA was passed until the regulations came out, 13 and how it was going to be implemented in New 14 Jersey. 15 So yes. The answer is yes. I do 16 think there's special expertise necessary to 17 understand how complex an issue it was at that time, 18 and how -- even though regulations were not in place 19 that mandated or covered every aspect of hazardous 20 waste management, that the world still spun, that 21 people still generated waste, it got disposed of. 22 The department did the best that it 23 could to manage it all, but while all this flux was 24 going on, things still happened that the waste got 25 generated, it got transported, then it got disposed.</p>

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<p style="text-align: right;">130</p> <p>1 So there was -- having been through it and under -- 2 and having been a part of the regulatory atmosphere, 3 I think is a specialized expertise. 4 Q. Other than being a part of the 5 regulatory atmosphere, as you put it, do you have 6 any specialized or particularized experience 7 regarding the meaning of RCRA, other than being at 8 the agency? 9 A. Well, it was not just being at the 10 agency, but my talent, if you will, at the DEP was 11 to establish regulatory programs, and knowledge of 12 the federal law was paramount to establishing a 13 program in New Jersey. 14 Q. When you say the federal law, do you 15 mean RCRA? 16 A. Yes. Yes -- or any federal law. I 17 mean, there was the Clean Water Act more times than 18 I want to count. I was involved in developing 19 regulatory programs at several levels that we talked 20 about earlier. And included in that is being able 21 to understand the regulations -- read them and 22 understand them, and to know what the impact is 23 going to be on the regulated community in the state. 24 Q. Did you ever have any involvement in 25 administering RCRA or the regulations promulgated</p>	<p style="text-align: right;">132</p> <p>1 would, section 4.2.1. Just let me take a moment. 2 This is just one page -- well, it goes onto the next 3 page at the very top, but just review it and let me 4 know when you've had a chance to review it. 5 A. Okay. 6 Q. What are the factual bases of the 7 statements you make in this section? 8 A. I believe it's strictly the review of 9 the code -- review of the code that I performed. 10 Q. And when you say review of the code, 11 do you mean the New Jersey Sanitary Code, effective 12 date, July 1st, 1970? 13 A. Yes. 14 Q. And in particular, do you mean 15 Chapter 8 of the New Jersey Sanitary Code from 1970? 16 A. Yes. 17 Q. Anything else that forms a factual 18 bases of section 4.2.1? 19 A. No. 20 Q. Okay. Did you have any personal 21 involvement in the promulgation of Chapter 8 of the 22 New Jersey Sanitary Code? 23 A. No. 24 Q. Do you have any specialized knowledge 25 or experience that would make you an expert in the</p>
<p style="text-align: right;">131</p> <p>1 pursuant to RCRA? 2 A. We talked about that earlier, that -- 3 having to do with the -- the sludge management, the 4 industrial waste disposal. Some of that was 5 hazardous waste for pretreatment. 6 We talked about the discharge of 7 industrial wastewater in the POTWs, and some of that 8 is covered by RCRA. The disposal of the residuals 9 from underground storage tanks has some RCRA 10 elements to it. 11 I don't remember if -- I don't 12 remember all the things we talked about it, but I 13 think we hit them earlier. 14 Q. Okay. I'm going to be asking these 15 questions with regard to each subsection, so I don't 16 want you to get frustrated or upset or anything, but 17 I need to know the bases, both from a specialized 18 knowledge standpoint and a factual standpoint, for 19 the statements made here. I know it's artificial. 20 I just want to let you know that. I'm not trying to 21 harass you. 22 Okay. Did you have any personal 23 involvement in the promulgation of RCRA? 24 A. No. 25 Q. Let's turn to page seven, if you</p>	<p style="text-align: right;">133</p> <p>1 meaning or interpretation of the New Jersey Sanitary 2 Code? 3 A. Yes. 4 Q. Okay. Can you detail that? 5 A. Again, that we talked about prior, 6 that my experience as a regulator, and being in the 7 environmental business for 30 years, allows me to 8 read previously adopted regulations and have an 9 understanding of what their purpose and breadth is. 10 Q. Anything else? 11 A. No. 12 Q. Did you have any personal involvement 13 in the events or activities that you describe in 14 section 4.2.1? 15 A. No. 16 Q. Have you had any involvement in 17 administering the New Jersey Sanitary Code? 18 A. No. 19 Q. Have you had any involvement in 20 enforcing the New Jersey Sanitary Code? 21 A. No. 22 Q. Does any specialized knowledge or 23 experience, on your part, underlie the statements 24 you make in section 4.2.1, other than what you've 25 just answered before about experience as a regulator</p>

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<p style="text-align: right;">134</p> <p>1 and the 30 years' experience in the environmental 2 industry?</p> <p>3 MR. BARNES: Objection as to form. 4 I'm -- it may be that I'm just dense today, but I'm 5 not sure I followed that question.</p> <p>6 Q. Okay. Let me restate it. Does any 7 specialized knowledge or experience, on your part, 8 underlie the statements you make in section 4.2.1?</p> <p>9 MR. BARNES: Objection. Asked and 10 answered.</p> <p>11 A. Yeah, other than what -- my 12 experience and expertise, no.</p> <p>13 Q. Other than citing or paraphrasing the 14 information that's contained in the New Jersey 15 Sanitary Code, did you employ any methodology or 16 analysis to arrive at the statements you make in 17 section 4.2.1?</p> <p>18 A. No.</p> <p>19 Q. Let's go to the next section, which 20 is 4.2.2, which starts on page eight, and goes over 21 to page nine.</p> <p>22 If you want to take a moment and just 23 re-review that section, let me know when you're 24 done.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">136</p> <p>1 Q. Have you had any involvement in 2 enforcing the 1974 amendments to the New Jersey 3 hazardous waste regulations?</p> <p>4 A. No.</p> <p>5 Q. Other than citing or paraphrasing 6 information in the 1974 amendments to the New Jersey 7 hazardous waste regulations, did you employ any 8 methodology or analysis to arrive at the statements 9 you made in section 4.2.2?</p> <p>10 A. Yes.</p> <p>11 Q. What's that?</p> <p>12 A. Well, as I read through this, there 13 were a couple of places where I made a statement 14 that was my own opinion or -- of my -- a statement 15 of my own, rather than a recitation of the rule. 16 There's several of them throughout this section.</p> <p>17 Q. Can you identify them for me?</p> <p>18 A. Second sentence of the second 19 paragraph -- well, actually, let me back up.</p> <p>20 Q. Sure.</p> <p>21 A. Second sentence of the first 22 paragraph, New Jersey DEP did prepare a definition 23 of hazardous waste but it was not detailed or 24 useful.</p> <p>25 Q. And that -- how did you arrive at</p>
<p style="text-align: right;">135</p> <p>1 Q. Okay. What are the factual bases of 2 the statements that you make in section 4.2.2?</p> <p>3 A. The -- a copy of the 1974 rules.</p> <p>4 Q. When you say the copy of the 1974 5 rules, which rules are you referring to?</p> <p>6 A. NJAC 7:26.</p> <p>7 Q. Okay. Did you have any personal 8 involvement in the promulgation of the 1974 9 amendments to the New Jersey hazardous waste regs?</p> <p>10 A. No.</p> <p>11 Q. Do you have any specialized knowledge 12 or experience that would make you an expert in the 13 meaning or interpretation of the 1974 amendments to 14 the New Jersey hazardous waste regs?</p> <p>15 A. Same answer as before. The expertise 16 in regulatory review, plus experience in the 17 business.</p> <p>18 Q. Did you have any personal involvement 19 in the events or activities that you describe in 20 section 4.2.2?</p> <p>21 A. No.</p> <p>22 Q. Have you had any involvement in 23 administering the 1974 amendments to the New Jersey 24 hazardous waste regulations?</p> <p>25 A. No.</p>	<p style="text-align: right;">137</p> <p>1 that conclusion?</p> <p>2 A. I read the definition. I didn't find 3 it detailed or useful. I -- from a regulatory 4 perspective, I did not find it detailed or useful, 5 that it would be able to be understood by the 6 regulated community or enforced by the 7 administrative agency.</p> <p>8 Q. And why was that?</p> <p>9 A. It wasn't detailed enough for people 10 to understand what hazardous waste was and was not.</p> <p>11 Q. And in what way was it not detailed 12 enough?</p> <p>13 A. It didn't describe, in enough detail, 14 what waste would be hazardous and what wastes are 15 not hazardous.</p> <p>16 Q. Is a copy -- I believe a copy of this 17 is included in the work pile that Mr. Sabino 18 produced, is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Let's flag this, and maybe we can 21 look at it, and go into a little more depth with the 22 document in front of us, just for purposes of 23 clarity.</p> <p>24 All right. And were there any other 25 statements that were not mere paraphrasing or</p>

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<p style="text-align: right;">138</p> <p>1 citation of the regs?</p> <p>2 A. The second paragraph, the first and</p> <p>3 second sentence. The first sentence talks about a</p> <p>4 broader amendment to the rules provided a more</p> <p>5 substantial change, that's my statement. A detailed</p> <p>6 definition of hazardous waste was provided for the</p> <p>7 first time, that's my statement.</p> <p>8 Q. Let's look at the first one.</p> <p>9 However, in June 1974 -- what did you base this</p> <p>10 conclusion on?</p> <p>11 A. Comparison between the June '74</p> <p>12 regulations and earlier versions of the regulations.</p> <p>13 Q. And in the second sentence here that</p> <p>14 starts, a detailed definition, how -- I mean, what</p> <p>15 is your own -- you said this is not a paraphrasing</p> <p>16 or a cite -- you know, it's not a --</p> <p>17 A. Well, the fact that it's provided for</p> <p>18 the first time; that, prior to that, the definition</p> <p>19 was as we just discussed, not very detailed or</p> <p>20 useful, but the definition of hazardous waste in</p> <p>21 1974 was more useful.</p> <p>22 Q. When you say more useful, do you mean</p> <p>23 to the regulated community?</p> <p>24 A. And regulators.</p> <p>25 Q. In what way to the regulators?</p>	<p style="text-align: right;">140</p> <p>1 A. Generators were required, after 1974,</p> <p>2 to submit a list to the DEP annually of where their</p> <p>3 waste went.</p> <p>4 Q. I mean, all of these things, it</p> <p>5 seems, are just statements of what the 1974</p> <p>6 regulations contained.</p> <p>7 I guess I'm not understanding, when</p> <p>8 you say it comes from your own knowledge or</p> <p>9 experience, how that is the case?</p> <p>10 A. Well, you didn't quite ask that. I</p> <p>11 thought the question was where are the statements</p> <p>12 that are not paraphrased from the regulations.</p> <p>13 To me, the evolution of the program</p> <p>14 is a valuable aspect of this report. And my</p> <p>15 expertise, some of it, is from just reading</p> <p>16 regulations that were -- pre-dated my exposure.</p> <p>17 Like in 1974, I am -- I was still in</p> <p>18 college. I didn't know from RCRA. But after --</p> <p>19 Q. You probably did know from RCRA.</p> <p>20 A. Probably -- actually, I probably did.</p> <p>21 At least I understood -- had some basis for</p> <p>22 knowledge. But the -- as the regulations evolved</p> <p>23 and I was at the department, there's more and more</p> <p>24 of my day-to-day involvement with these regulations.</p> <p>25 But I'm not sure that someone without</p>
<p style="text-align: right;">139</p> <p>1 A. For enforcement purposes, that the --</p> <p>2 knowing what a hazardous waste was at that time</p> <p>3 would allow proper implementation of the rule.</p> <p>4 Q. Okay. Any other statements here that</p> <p>5 aren't paraphrases?</p> <p>6 A. Well, the first sentence of paragraph</p> <p>7 three, hazardous waste generator has similar</p> <p>8 requirements as the waste producer, but has the</p> <p>9 added responsibility, and so on.</p> <p>10 Of that sentence here, I compared the</p> <p>11 1970 rules with the 1974 rules to show that there</p> <p>12 were further requirements for the hazardous waste</p> <p>13 generator.</p> <p>14 In fact, this was the first time the</p> <p>15 term, "hazardous waste generator", came out.</p> <p>16 In the second sentence, the</p> <p>17 statement, this is the first example in the state</p> <p>18 rules of the cradle to grave notion of having the</p> <p>19 generator focus on the final disposition of the</p> <p>20 waste, that's my own statement.</p> <p>21 And the last sentence, this allowed</p> <p>22 DEP to start tracking the volume of waste generated</p> <p>23 Q. That's -- what is that?</p> <p>24 A. What is that?</p> <p>25 Q. You said that --</p>	<p style="text-align: right;">141</p> <p>1 the expertise can even prepare this section. I</p> <p>2 mean, maybe lawyers can, 'cause they're used to</p> <p>3 looking at this, but not too many other people who</p> <p>4 don't have this expertise can do that.</p> <p>5 Q. All right. So it sounds as if the</p> <p>6 methodology involved a comparison between the 1974</p> <p>7 hazardous waste regulations or prior regs, is that</p> <p>8 right?</p> <p>9 A. Yes, with the highlight on points</p> <p>10 that allowed better administration or prior versions</p> <p>11 of the entire hazardous waste management program.</p> <p>12 Q. Let's turn to 4.2.3, which starts on</p> <p>13 page nine. Why don't you just take a moment and</p> <p>14 look this over.</p> <p>15 A. Okay.</p> <p>16 Q. Okay. What are the factual bases of</p> <p>17 the statements you make in section 4.2.3?</p> <p>18 A. The code at that time, again, 7:26.</p> <p>19 The rules that were promulgated on May 1st, 1978.</p> <p>20 Q. Did you have any personal involvement</p> <p>21 in the promulgation of the 1976 amendments to the</p> <p>22 New Jersey hazardous waste regs?</p> <p>23 A. I may have had a peer review of them.</p> <p>24 It would be about the right time frame.</p> <p>25 Q. Can you describe that peer review</p>

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<p style="text-align: right;">142</p> <p>1 process in a little bit more detail? I don't think 2 we fully got into that process. 3 A. Sure. Regulations that were in the 4 process of drafted -- being drafted by particular 5 programs would be circulated to other programs 6 within the department that might have some type of 7 overlap, and the program managers were asked to 8 comment on the rules as drafted to see if changes 9 were necessary or recommended or suggested to the 10 implementing program. 11 Q. Were the comments -- when the 12 proposed regulations were disseminated amongst the 13 program people, or the different program people, 14 were the comments meant to be specific to whatever 15 division those program people were in or could they 16 be regarding anything? 17 A. It could be anything. 18 Q. Okay. 19 A. It could be grammatical. It could be 20 spelling. It could be very substantive. 21 Q. In any of the peer reviews that you 22 were engaged in, did you ever submit any suggested 23 comments? 24 A. I'm sure, yes. 25 Q. Any that you recall on the waste</p>	<p style="text-align: right;">144</p> <p>1 involvement. 2 Q. Did you have any involvement in 3 enforcing the 1978 hazardous waste regulations? 4 A. No, not that I can recall. 5 Q. Did you employ any methodology or 6 analysis to arrive at the conclusions you make in 7 section 4.2.3, other than paraphrasing or comparing 8 the 1978 amendments to other regulations? 9 A. Well, I think the last two sentences 10 are indicative of the milestone that these 11 regulations became, or upon their promulgation, 12 because of the manifest system, it was a seen 13 change, in terms of being able to effectively manage 14 the hazardous waste program in New Jersey, 'cause 15 now the waste could be tracked. 16 So this was a -- I tried to show, at 17 the end of the section, that this was a big deal. 18 This was a very big deal. And the fact that New 19 Jersey implemented this before the feds did, and 20 that was -- you know, stirred up a lot of issues 21 that the department had to address. 22 Q. Did the implementation of the 23 manifest system affect the program that you were in 24 at the time? 25 A. To a small degree. Some of the --</p>
<p style="text-align: right;">143</p> <p>1 regulations? 2 A. Not specifically. 3 Q. Okay. Turning back to 4.2.3, what is 4 the specialized -- if any, what is the specialized 5 knowledge or experience that would make you an 6 expert in the meaning or interpretation of the 1978 7 amendments to the New Jersey hazardous waste 8 regulations? 9 A. Same answer as before, with the 10 overall experience in the field and experience in 11 regulatory programs. 12 Q. Did you have any personal involvement 13 in the events or activities that you describe in 14 section 4.2.3? 15 A. As I said before, I may have had a 16 peer review of the regulations prior to their 17 adoption. 18 Q. Did you have any involvement in 19 administering the 1978 amendments to the hazardous 20 waste regulations? 21 A. Same answer as before. This is the 22 time period where we were dealing with the 23 industrial waste under sludge management, and the 24 industrial wastewaters under the industrial 25 pretreatment program. So there may have been some</p>	<p style="text-align: right;">145</p> <p>1 some of the ways -- when we developed our regulatory 2 program for sludge management industrial 3 pretreatment, we had to kind of steer our clients, 4 if you will, the regulated community to making sure 5 they fulfilled their duties under the manifest 6 program. 7 So in that regard -- in that small 8 regard -- yes. 9 Q. Turning to your conclusions at 4.2.4, 10 which appear on pages nine and ten, I'm going to ask 11 you some of the same questions. 12 I'm going to ask you, these are your 13 conclusions, which I -- I should ask you, how are 14 these statements in 4.2.4 different than the 15 preceding statements in the subsections before -- 16 subsections of four? 17 A. Well, they're summary conclusions -- 18 just like the section is entitled -- on the 19 evolution of the hazardous waste management program 20 in New Jersey from 1970 till '78. 21 Number one is that there was an 22 awareness that there was a problem of hazardous 23 waste disposal, and that the regulatory agencies 24 knew about the problem and were taking some steps to 25 fix it by the passage, in '70, of the Chapter 8 of</p>

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<p style="text-align: right;">146</p> <p>1 the sanitary code.</p> <p>2 Number two talks about the evolution</p> <p>3 of the rules, to the point where the manifest became</p> <p>4 the identifying method of tracking the waste from</p> <p>5 cradle to grave.</p> <p>6 And then, in '74, it talks about the</p> <p>7 awareness of -- that the unmanaged disposal of</p> <p>8 hazardous waste was contaminating groundwater and</p> <p>9 banned all future disposal into landfills.</p> <p>10 I think it's a very -- all three are</p> <p>11 important statements.</p> <p>12 Q. Okay. I wasn't questioning that they</p> <p>13 were important. I was just asking how they differ</p> <p>14 in kind from the preceding statements that describe</p> <p>15 or compare the various regulatory regimes at</p> <p>16 different time periods.</p> <p>17 A. Well, I tried to put it, not</p> <p>18 necessarily in the comparison mode for the</p> <p>19 conclusions, but what did all this mean.</p> <p>20 Yes, there were three or four sets of</p> <p>21 regulations that got passed, but what happened at</p> <p>22 the end? What was the good that happened at the end</p> <p>23 of this eight-year period?</p> <p>24 And the good is the manifest system</p> <p>25 and the banning of unmanaged landfill disposal were</p>	<p style="text-align: right;">148</p> <p>1 MS. FLAX: He hasn't addressed 4.3</p> <p>2 yet. You're asking him a broad question. I'm just</p> <p>3 trying to make sure that I didn't miss something.</p> <p>4 MS. MOONEY: I see what you're</p> <p>5 saying. You're right.</p> <p>6 Q. I'm not including 4.3, which is the</p> <p>7 next section.</p> <p>8 When I say the subsections -- thank</p> <p>9 you -- of 4.0, I mean what we've already discussed</p> <p>10 up to 4.2.4.</p> <p>11 A. Repeat the core of the question now.</p> <p>12 Q. Other than the specialized knowledge</p> <p>13 or experience that you testified underlies the</p> <p>14 preceding subsections of section 4.0, is there any</p> <p>15 specialized knowledge or experience on your part</p> <p>16 that underlies the conclusions you make in section</p> <p>17 4.2.3?</p> <p>18 A. Again, other than of the</p> <p>19 contaminating groundwater issue of number three, and</p> <p>20 all the other expertise we talked about earlier,</p> <p>21 that would cover it.</p> <p>22 Q. Can you describe the methodology or</p> <p>23 analysis you used to arrive at these conclusions at</p> <p>24 4.2.4?</p> <p>25 A. I'm sorry, could you repeat that?</p>
<p style="text-align: right;">147</p> <p>1 both good things that came out of these programs.</p> <p>2 Q. Okay. And are the factual bases for</p> <p>3 these three conclusions that you make, at 4.2.4, the</p> <p>4 same factual bases that we've discussed in the</p> <p>5 preceding subsections of 4.0?</p> <p>6 A. Yes. Yes.</p> <p>7 Q. Any other factual bases other than</p> <p>8 what we've discussed for the other section -- four</p> <p>9 subsections?</p> <p>10 A. Not to split hairs, but in number</p> <p>11 three, I use the term "contaminating groundwater",</p> <p>12 and I'm not sure that's in the rules themselves.</p> <p>13 But that's my own knowledge of why it was done, and</p> <p>14 certainly history has shown that that problem</p> <p>15 occurred at these landfills.</p> <p>16 Q. Other than the specialized knowledge</p> <p>17 or experience that you testified underlies the</p> <p>18 preceding subsections of 4.0, is there any</p> <p>19 specialized knowledge or experience that underlies</p> <p>20 these conclusions?</p> <p>21 MS. FLAX: Are you limiting this to</p> <p>22 4.0 in its entirety?</p> <p>23 MS. MOONEY: When I say subsections</p> <p>24 of 4.0, I mean all -- four-point -- well, 4.0,</p> <p>25 'cause the 4.1, 4.2, 4.3 are subsections of 4.0.</p>	<p style="text-align: right;">149</p> <p>1 Q. Can you describe the methodology or</p> <p>2 analysis you used to arrive at the conclusions you</p> <p>3 make in 4.2.4?</p> <p>4 A. Well, based upon the review of the</p> <p>5 various sets of regulations, I came to these</p> <p>6 conclusions based upon my review.</p> <p>7 I reviewed the different parts of it.</p> <p>8 I compared different regulations and how they</p> <p>9 evolved over time. The starting date of when DEP</p> <p>10 was aware of the problem -- at least, as I say --</p> <p>11 was in 1970. It may actually have been earlier.</p> <p>12 But that's when they adopted regulations.</p> <p>13 So the review of the rules, the</p> <p>14 evolution of the rules, and my knowledge of what the</p> <p>15 lack of rules -- the problems that could develop</p> <p>16 from the lack of the rules presented these opinions.</p> <p>17 Q. Okay. It wasn't a trick question.</p> <p>18 It's just -- it's a self-evident question that I</p> <p>19 need to ask.</p> <p>20 Turning to section four-point -- let</p> <p>21 me just back up real quick.</p> <p>22 In your opinion, was AETC, as a</p> <p>23 broker, subject to any regulatory requirements in</p> <p>24 New Jersey in 1976 and 1977?</p> <p>25 A. AETC was, as a broker, to -- I guess</p>

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<p style="text-align: right;">150</p> <p>1 that's subject to the way you word the question --</p> <p>2 no, they were not. They were obligated, as a</p> <p>3 business, to assist their clients to comply with the</p> <p>4 regulations. But, again, just as a broker.</p> <p>5 There was no specific requirements,</p> <p>6 that I'm aware of, or were aware of at that time,</p> <p>7 that they were subject to.</p> <p>8 Q. Let's go to 4.3. The first sentence</p> <p>9 on page ten, under 4.3, in the second paragraph,</p> <p>10 which starts, Pennsylvania state officials -- I</p> <p>11 think I know the answer to this, but I'll ask you</p> <p>12 anyway -- what is the factual basis of that</p> <p>13 statement?</p> <p>14 A. The report to Congress dated January</p> <p>15 23, 1979.</p> <p>16 Q. We'll ascertain later which of the</p> <p>17 January 1979 reports it is --</p> <p>18 A. Okay.</p> <p>19 Q. -- but that's what I thought.</p> <p>20 All right. And I believe you</p> <p>21 testified to this earlier as well. Did you review</p> <p>22 the hazardous waste management regulations in effect</p> <p>23 in Pennsylvania in 1976 and 1977 in preparing your</p> <p>24 report?</p> <p>25 A. No.</p>	<p style="text-align: right;">152</p> <p>1 Q. Other than the documents that are</p> <p>2 listed in Appendix B of your report, did you rely on</p> <p>3 any documents or information available solely via</p> <p>4 electronic means?</p> <p>5 A. Well, as I -- I answered earlier,</p> <p>6 I -- I have a -- I don't really recall where I got</p> <p>7 these particular dates, but I may have gotten it off</p> <p>8 the PADEP website. It's certainly not germane to</p> <p>9 the opinion that I've offered in the report.</p> <p>10 Q. What's not germane to the opinion?</p> <p>11 A. The dates of the Pennsylvania -- the</p> <p>12 first paragraph of section 4.3, Solid Waste</p> <p>13 Management Act date and the Chapter 75 date of</p> <p>14 promulgation, and amendment.</p> <p>15 Q. The second sentence of the first</p> <p>16 paragraph under 4.3 that says, these rules were</p> <p>17 amended in 1977 to specifically define and manage</p> <p>18 hazardous wastes, does that imply that, prior to</p> <p>19 1977, the regulations in Pennsylvania did not</p> <p>20 specifically define or manage hazardous waste?</p> <p>21 A. That's the inference that's given. I</p> <p>22 didn't do any research to verify that.</p> <p>23 Q. Do you know what the regulatory</p> <p>24 requirements, with regards to the transportation and</p> <p>25 disposal of hazardous wastes, were that were in</p>
<p style="text-align: right;">151</p> <p>1 Q. Okay. Was that simply because you</p> <p>2 couldn't locate a copy --</p> <p>3 A. That's correct.</p> <p>4 Q. -- of the regs?</p> <p>5 Okay. For the rest of the statements</p> <p>6 you make in section 4.3, what are the factual bases</p> <p>7 for those statements?</p> <p>8 A. I don't recall. I'm not sure if I</p> <p>9 got this off a website or some document, PADEP</p> <p>10 document. I didn't receive the regs till after the</p> <p>11 report. I must have gotten this off the website.</p> <p>12 There must have been a history of waste management</p> <p>13 discussion. I don't really recall.</p> <p>14 Q. Did you rely on documented materials</p> <p>15 in drafting your report?</p> <p>16 When I say undocumented, what I</p> <p>17 really mean is that were on the Internet or</p> <p>18 available through some electronic means which is</p> <p>19 not, you know, a material object in this dimension.</p> <p>20 MR. BARNES: Objection as to form.</p> <p>21 I'm fairly certain that that's objectionable as to</p> <p>22 form, if only for the use of the term "dimension".</p> <p>23 Let the record reflect that we are</p> <p>24 all laughing. I'm going to assume you are going to</p> <p>25 rephrase the question.</p>	<p style="text-align: right;">153</p> <p>1 effect in Pennsylvania in 1976 and 1977?</p> <p>2 A. No. No, I'm not familiar with them.</p> <p>3 Q. In your opinion, was AETC, as a</p> <p>4 broker, subject to any Pennsylvania regulatory</p> <p>5 requirements pertaining to hazardous wastes in 1976</p> <p>6 and 1977?</p> <p>7 A. Other than to -- other than to</p> <p>8 properly assist their clients, I would say no --</p> <p>9 excuse me, I should say I don't know.</p> <p>10 Q. Did you have any personal involvement</p> <p>11 in the promulgation of any Pennsylvania regulations</p> <p>12 pertaining to hazardous wastes?</p> <p>13 A. No.</p> <p>14 Q. Do you have any specialized knowledge</p> <p>15 or experience that would make you an expert in the</p> <p>16 meaning or interpretation of the Pennsylvania</p> <p>17 hazardous waste regulations?</p> <p>18 A. Again, same answer as before, where I</p> <p>19 have an expertise in reviewing regulations.</p> <p>20 Q. Did you have any personal involvement</p> <p>21 in the events or activities described in section</p> <p>22 4.3?</p> <p>23 A. No.</p> <p>24 Q. Have you had any involvement in</p> <p>25 administering the Pennsylvania hazardous waste</p>

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<p style="text-align: right;">154</p> <p>1 regulations?</p> <p>2 A. No.</p> <p>3 Q. Have you had any involvement in the</p> <p>4 enforcing the Pennsylvania hazardous waste</p> <p>5 regulations?</p> <p>6 A. No.</p> <p>7 Q. Did you employ any methodology or</p> <p>8 analysis in arriving at the statements that you make</p> <p>9 in section 4.3, other than paraphrasing documents in</p> <p>10 Appendix B or that you got on the Internet?</p> <p>11 A. No.</p> <p>12 Q. All right. Let's turn to section</p> <p>13 5.0, which starts on page 11. If you could take a</p> <p>14 moment and just look quickly over section 5.1, which</p> <p>15 is 11 and 12, and just let me know when you've had</p> <p>16 an opportunity to look at that.</p> <p>17 A. Okay.</p> <p>18 Q. In section 5.1, you make a number of</p> <p>19 statements regarding the motivations of Messrs.</p> <p>20 Leuzarder and Landmesser in starting up AETC,</p> <p>21 specifically the last two sentences of the first</p> <p>22 paragraph, the first sentence of the second</p> <p>23 paragraph, and the third and fourth sentences of the</p> <p>24 second paragraph and the last two sentences of the</p> <p>25 second paragraph.</p>	<p style="text-align: right;">156</p> <p>1 When it got more expensive, that</p> <p>2 created a whole evolution of new hazardous waste</p> <p>3 treatment and disposal facilities.</p> <p>4 Q. And what prior knowledge did you have</p> <p>5 about the effect of disposal of material on Kin-Buc?</p> <p>6 A. While I was at the DEP, one of the</p> <p>7 issues I dealt with, I believe, in the industrial</p> <p>8 pretreatment program, was the discharge of leaching</p> <p>9 from the treatment system that got built at Kin-Buc,</p> <p>10 in the early eighties, to treat the contamination</p> <p>11 which was present at that -- it's a superfund site.</p> <p>12 And I remember reading a summary of the reasons why</p> <p>13 the contamination was present -- a little bit of the</p> <p>14 history of the landfill.</p> <p>15 Q. And did that include the statement</p> <p>16 you make in the second paragraph on page 11, that --</p> <p>17 in the middle -- due in large part to the</p> <p>18 unsophisticated methods of waste disposal, Kin-Buc</p> <p>19 charged lower prices to accept waste.</p> <p>20 Is that what you're --</p> <p>21 A. Yes, that's part of it. There was no</p> <p>22 real treatment taking place at the landfill, other</p> <p>23 than opening up the back of a tank wagon and letting</p> <p>24 the liquid flow onto the waste that was present.</p> <p>25 Q. And you also said you had some</p>
<p style="text-align: right;">155</p> <p>1 If you want to take a moment to look</p> <p>2 at those, that's fine, and take your time, but my</p> <p>3 question is, what were the factual bases of these</p> <p>4 statements, other than the deposition transcripts</p> <p>5 that you cite in the footnoted sections of section</p> <p>6 5.1?</p> <p>7 MR. BARNES: Objection, compound</p> <p>8 question. Objection as to form. You're calling for</p> <p>9 a narrative as well.</p> <p>10 A. This section is predominantly a</p> <p>11 summary of the deposition transcripts. I have some</p> <p>12 independent knowledge of the events, but the</p> <p>13 deposition transcripts speak for themselves in terms</p> <p>14 of their discussion of AETC's reasons for start-up.</p> <p>15 Q. And what is the personal knowledge</p> <p>16 you have of these events?</p> <p>17 A. The -- I have some knowledge of the</p> <p>18 effect of the disposal of material at Kin-Buc. I</p> <p>19 have some knowledge of the fact that hazardous waste</p> <p>20 was kind of a non-profession at the time, that it</p> <p>21 was handled by garbagemen, and the fact that -- that</p> <p>22 the passing of regulations which banned the landfill</p> <p>23 acceptance of hazardous waste helped trigger gains</p> <p>24 in the industry, because now it was no longer</p> <p>25 acceptable to cheaply dispose of hazardous waste.</p>	<p style="text-align: right;">157</p> <p>1 independent knowledge of the handling of hazardous</p> <p>2 waste by garbagemen. Can you describe what that</p> <p>3 knowledge is?</p> <p>4 A. Again, the knowledge is based upon</p> <p>5 the experience I had at DEP in dealing with</p> <p>6 different superfund sites and other cleanup at the</p> <p>7 different properties in New Jersey where the --</p> <p>8 there was no a separate profession for -- there was</p> <p>9 a hazardous waste management program that was</p> <p>10 followed across-the-board. And as a result, people</p> <p>11 got rid of waste in the cheapest way they could.</p> <p>12 And the garbagemen were picking it</p> <p>13 up, and they just said bye-bye to their waste</p> <p>14 without any real knowledge or care about where it</p> <p>15 went to, as long as it was out of there own site.</p> <p>16 Q. Did you have any contemporaneous</p> <p>17 knowledge of that practice?</p> <p>18 MR. BARNES: Objection as to form.</p> <p>19 MS. MOONEY: What?</p> <p>20 MR. BARNES: What contemporaneous</p> <p>21 time do you mean?</p> <p>22 Q. Did you have any contemporaneous</p> <p>23 involvement in the activity that you just described</p> <p>24 with regard to garbagemen handling hazardous waste?</p> <p>25 A. I recall that being one of the</p>

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<p>158</p> <p>1 positive by-products of the passage of all the 2 regulations, is that it set up a whole new industry 3 of hazardous waste transporters and disposal 4 facilities, where the generators at least had 5 options of what to do with their waste, where, 6 before, the options were fairly limited.</p> <p>7 Q. Did you have any personal involvement 8 in any of the statements pertaining to AETC in 9 section 5.1?</p> <p>10 A. No.</p> <p>11 Q. Turning to 5.2, why don't you look 12 over it for a minute. Let me know when you've had a 13 chance to do it that. It goes to page 13.</p> <p>14 A. Okay.</p> <p>15 Q. Can you describe the factual bases of 16 the statements that you make in section 5.2?</p> <p>17 A. The depositions of the two AETC 18 individuals and the answer to plaintiff's 19 interrogatories, and the responses of plaintiff to 20 AETC's interrogatories.</p> <p>21 Q. Anything other than the documents you 22 just described that you cited at the bottom in a 23 footnote -- just statements -- made in section 5.2?</p> <p>24 A. No other factual basis.</p> <p>25 Q. And does that include the statements</p>	<p>160</p> <p>1 about regulations, but we were all interested in 2 what everyone else was doing, and to hear about 3 someone else's concerns about the -- their own 4 program and how it was changing, or what the 5 regulations they were providing were trying to do 6 and what enforcement actions they were doing.</p> <p>7 It's always very interesting.</p> <p>8 Q. Did you have any personal involvement 9 in any of the events or activities that you describe 10 in section 5.2?</p> <p>11 A. No.</p> <p>12 Q. Okay. Other than citing or 13 paraphrasing the footnoted documents, did you employ 14 any methodology or analysis in arriving at the 15 conclusions that you make in section 5.2?</p> <p>16 A. Well, other than the mention I make 17 at the fourth paragraph, the answer is no.</p> <p>18 Q. And does any specialized knowledge or 19 experience on your part underlie any of the 20 statements made in 5.2?</p> <p>21 A. Again, with that same paragraph four, 22 the answer is no.</p> <p>23 Q. And for paragraph four, what is the 24 different specialized knowledge or experience that 25 would underlie those statement?</p>
<p>159</p> <p>1 that do not have a footnote in the section?</p> <p>2 A. The only statement I saw that was not 3 directly from the -- those citations was the first 4 sentence of the fourth paragraph. It says, during 5 this time period, government regulations were in the 6 process of changing, and then the next sentence 7 starts, due to the closure of Kin-Buc and the 8 increased attention being paid by regulatory 9 officials -- that's some of my own thoughts, in 10 addition to the deposition transcripts.</p> <p>11 Q. And when you say some of your own 12 thoughts, do you just mean your general experience 13 of your knowledge of waste practices at that time?</p> <p>14 A. Yes, and that was at the time that I 15 was at DEP. So it was some knowledge as things were 16 occurring.</p> <p>17 Q. When you were at DEP, did you have 18 any colleagues or friends in the waste management 19 division that you conferred with on a regular basis?</p> <p>20 A. Oh, yes.</p> <p>21 Q. And did you confer about changes in 22 the regulatory regime for treatment of waste and 23 waste management?</p> <p>24 A. Yes, that would be discussed. I 25 mean, we wouldn't necessarily go over there to talk</p>	<p>161</p> <p>1 A. Oh, that the government regulations 2 are in the process of changing. The -- as I said 3 earlier, the -- before the regulations evolved into 4 the forms in the late seventies, it was difficult 5 for the regulated community to know what a hazardous 6 waste was, and for DEP to effectively enforce it.</p> <p>7 The fact that the regulations were 8 changing to require folks to start paying attention 9 to hazardous waste, and to fill out manifest forms, 10 made it a difficult time for generators, because 11 they had no clue until they got instructed of what 12 to do, and AETC provided a valuable service.</p> <p>13 I mean, that -- maybe the words, I'm 14 paraphrasing out of one of the depositions, but that 15 type of service should not be understated because of 16 the complexity of the regulations.</p> <p>17 Q. And your -- what specialized 18 knowledge or experience on your part allows you to 19 make that opinion or to make that conclusion?</p> <p>20 A. Well, I think just reading the regs 21 doesn't give you the flavor. You had to be there -- 22 I mean, I -- as we said, I wasn't quite there in '76 23 doing this while AETC was, but this flux was present 24 probably till the RCRA regs came out in '80 or '81, 25 the federal regs.</p>

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<p style="text-align: right;">162</p> <p>1 So for this five-year time frame, 2 there was a lot of this -- of these issues that 3 generators had to deal with of how to properly 4 dispose of their waste, and it just permeated the 5 department because of sites like Kin-Buc, and the 6 other couple of dozen superfund sites in New Jersey 7 that were caused by the improper disposal of 8 hazardous waste. 9 Q. And still, though, I guess I'm not 10 understanding the particular specialized knowledge 11 that underlies this statement. 12 I mean, you're talking about being at 13 the agency and kind of being in the thick of this 14 great change. 15 Can you pinpoint, in a more precise 16 way, exactly what experience or what specialized 17 knowledge would allow you to make the statement 18 definitively? 19 A. Well, I'm probably repeating myself, 20 but the part of the other issue in this case is the 21 need for industries to find a location to place 22 their waste. Otherwise, they would need to shut 23 operations down. 24 I'm not sure you get that flavor 25 simply by reading regulations, but by being</p>	<p style="text-align: right;">164</p> <p>1 sure it necessarily was them all the time. 2 The documents that I reviewed, I 3 recalled the Diaz Chemical documents were prepared 4 by Diaz, and I believe Ashland's were prepared by 5 Ashland, but they may have been more sophisticated. 6 I definitely got the impression, from 7 reading the depositions, that that was a service 8 that AETC would provide as well. 9 Q. Do you have any experience in the 10 filling out of DOT shipping documents that you 11 described here? 12 A. I may have done one or two in my 13 career, but I don't have any specific recollection. 14 Q. It sounds, from what you just said, 15 that the deposition transcripts were the source of 16 the factual basis of this statement; is that 17 correct? 18 A. Yes. Yes. 19 Q. All right. If we turn to page 14, 20 section 5.3, just take a moment. 21 A. Okay. 22 Q. What are the factual bases of the 23 statements you make in section 5.3? 24 A. The deposition transcripts of the two 25 AETC individuals.</p>
<p style="text-align: right;">163</p> <p>1 present -- being present, and understanding that in 2 1978, is not a special expertise, and then I can't 3 answer your question any other way. 4 I think it's having that knowledge 5 and understanding of what happened in that time 6 period is valuable knowledge. It may not be 7 expertise, per se, but it's knowledge, and I use 8 that knowledge in the development of my opinions. 9 Q. Okay. On the last paragraph on page 10 13, you talk about DOT shipping documents. It 11 starts in the second paragraph (sic) of that last 12 paragraph on the page. 13 You say, a DOT shipping document 14 would be prepared, plus an invoice from the 15 transporter or disposal facility to AETC, and a 16 second invoice from AETC to the customer. 17 What's your understanding regarding 18 who prepared that DOT shipping document? 19 A. Of who prepared it? 20 Q. Yes. You used the passive, "would be 21 prepared". Do you have an understanding of who 22 would prepare that? 23 A. Well, if you read the Landmesser and 24 Leuzarder depositions, it sounded like that they did 25 that service for some of their clients. I am not</p>	<p style="text-align: right;">165</p> <p>1 Q. Anything else? 2 A. No. 3 Q. Okay. Other than citing or 4 paraphrasing information contained in the cited 5 documents, did you employ any methodology or 6 analysis to arrive at the statements you make in 7 5.3? 8 A. No. 9 Q. Did you have any personal involvement 10 in the events or activities described in 5.3? 11 A. I may have either attended the 12 training school that they talk about here, or I knew 13 of it, because when I read it in the deposition 14 transcript, it sounded awfully familiar. But 15 otherwise, I didn't teach the course, for example. 16 I may have attended it, but that's the only thing I 17 could stretch to. 18 Q. Do you have any specific recollection 19 of having attended it, or is it just a situation 20 where it sounds kind of familiar? 21 A. It sounded very familiar to me. 22 Q. Is this the type of thing that you 23 would have attended at the time? 24 A. I might have. It couldn't have been 25 a definite, because I was in a different program,</p>

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<p style="text-align: right;">166</p> <p>1 but as I said, way back in the beginning, I did</p> <p>2 attend a lot of different seminars and training</p> <p>3 sessions when I was at the DEP.</p> <p>4 So it may very well have been one of</p> <p>5 these or something similar.</p> <p>6 Q. Okay. Does any specialized knowledge</p> <p>7 or experience on your part underlie any of the</p> <p>8 statements you make here in 5.3?</p> <p>9 A. No.</p> <p>10 Q. I am going to ask you some questions</p> <p>11 now about the conclusions you made at section 5.4.</p> <p>12 Are there any factual bases</p> <p>13 underlying the conclusions you make in 5.4, other</p> <p>14 than the factual bases you testified underlie the</p> <p>15 statements made in the preceding subsections of</p> <p>16 section five of your report?</p> <p>17 A. No. I believe they all came from</p> <p>18 either the deposition transcripts or the</p> <p>19 interrogatory -- response to interrogatories that we</p> <p>20 talked about earlier.</p> <p>21 Q. Okay. Is there any specialized</p> <p>22 knowledge or experience on your part that underlies</p> <p>23 conclusions A through D in section 5.4?</p> <p>24 A. No.</p> <p>25 Q. Other than summarizing the</p>	<p style="text-align: right;">168</p> <p>1 Q. Did you employ any methodology or</p> <p>2 analysis -- other than paraphrasing the depositions,</p> <p>3 did you employ any methodology or analysis in making</p> <p>4 these statements in 6.1?</p> <p>5 A. I guess the first paragraph and the</p> <p>6 first sentence of the second paragraph are more of</p> <p>7 my statements, rather than the paraphrasing.</p> <p>8 Q. And you had testified before that the</p> <p>9 information regarding Kin-Buc, you derived from work</p> <p>10 that you did for a superfund site client; is that</p> <p>11 right?</p> <p>12 A. Not necessarily a superfund client,</p> <p>13 but at the DEP, the knowledge of what happened at</p> <p>14 Kin-Buc and why it was closed and what happened</p> <p>15 afterwards came when I was at DEP.</p> <p>16 Q. In 1976?</p> <p>17 A. No, it was early eighties.</p> <p>18 Q. Had you ever heard of Kin-Buc</p> <p>19 landfill prior to the 1980's?</p> <p>20 A. Yes.</p> <p>21 Q. In what context?</p> <p>22 A. Two contexts: First, that the --</p> <p>23 there was investigations going on by other parts of</p> <p>24 DEP regarding the level of contamination present at</p> <p>25 the site, and then the groundwater underneath the</p>
<p style="text-align: right;">167</p> <p>1 information in the deposition transcripts or the</p> <p>2 responses to interrogatories, did you employ any</p> <p>3 methodology or analysis in arriving at these</p> <p>4 conclusions in section 5.4?</p> <p>5 A. Well, to the extent that it assisted</p> <p>6 in the remainder of the expert report, then yeah,</p> <p>7 because it did -- the conclusions are focused on</p> <p>8 providing context to the rest of the report. But</p> <p>9 other than that, there's no other specific</p> <p>10 methodology.</p> <p>11 Q. All right. Let me get started -- can</p> <p>12 we -- section 6.1, that begins on page 15. Just</p> <p>13 take a minute and look over that.</p> <p>14 A. Okay.</p> <p>15 Q. Other than the deposition transcripts</p> <p>16 that you cite at the bottom of section 6.1, are</p> <p>17 there any other factual bases of the statements you</p> <p>18 make in section 6.1?</p> <p>19 A. Other than the footnotes, plus</p> <p>20 probably Leuzarder's deposition gave some context</p> <p>21 from the earlier parts of the report to some</p> <p>22 statements here. And, again, that's the factual</p> <p>23 basis.</p> <p>24 Q. Okay.</p> <p>25 A. Stop there.</p>	<p style="text-align: right;">169</p> <p>1 site.</p> <p>2 So it got some -- a lot of by-play,</p> <p>3 if you will, within the department staff about what</p> <p>4 must have been discharged their over time.</p> <p>5 Q. And when did you hear that?</p> <p>6 A. Late seventies. There was also an</p> <p>7 effort at the time, by the owners of Kin-Buc, to</p> <p>8 establish the Kin-Buc II, which was the other</p> <p>9 landfill with a great name, but presumably with</p> <p>10 better management of the landfill so that it would</p> <p>11 be able to accept waste in a proper manner and not</p> <p>12 just contaminate the environment.</p> <p>13 Q. When did you hear about that Kin-Buc</p> <p>14 II?</p> <p>15 A. It would also be the late seventies.</p> <p>16 Q. When you say the late seventies, do</p> <p>17 you mean after 1977 or before 1977?</p> <p>18 A. I can't place it. It would be during</p> <p>19 the time from when I first started to, let's say,</p> <p>20 the 1980 time frame. I don't know when I first</p> <p>21 heard about it.</p> <p>22 Q. Did you have any personal involvement</p> <p>23 in the events or activities that you describe in</p> <p>24 6.1?</p> <p>25 A. No.</p>

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<p style="text-align: right;">170</p> <p>1 Q. Okay. Does any specialized knowledge</p> <p>2 or experience on your part underlie the statements</p> <p>3 that you make in section 6.1?</p> <p>4 A. Again, the first paragraph and the</p> <p>5 first sentence of the second paragraph, I think, are</p> <p>6 knowledge of what the evolution of the rules was</p> <p>7 doing to the community at the time.</p> <p>8 Q. Okay. Turning to 6.2, which starts</p> <p>9 on page 16, why don't you take a look at that. It</p> <p>10 goes on to page 17.</p> <p>11 A. Okay.</p> <p>12 Q. Can you describe the factual bases of</p> <p>13 the statements you make in 6.2?</p> <p>14 A. The deposition transcripts of the two</p> <p>15 AETC individuals. There was an insurance policy in</p> <p>16 the exhibits that I referred to, and a couple of</p> <p>17 letters that were written by DeRewal to potential</p> <p>18 clients or actual clients -- I don't recall which --</p> <p>19 but those letters are part of the factual basis.</p> <p>20 Q. Are those letters cited on the</p> <p>21 footnotes?</p> <p>22 A. Yes.</p> <p>23 Q. Are those exhibits P-9 and P-44?</p> <p>24 A. Yes. And I think I left out -- let's</p> <p>25 see -- yeah, exhibit Curley-5 is a letter or a memo</p>	<p style="text-align: right;">172</p> <p>1 A. Yes.</p> <p>2 Q. What is your expert opinion regarding</p> <p>3 the types of permits or licenses that DeRewal would</p> <p>4 have shown AETC at this time?</p> <p>5 A. Well, this was for the</p> <p>6 Philadelphia -- Wissinoming Philadelphia facility.</p> <p>7 They would have had either a discharge permit to</p> <p>8 discharge the treated waste stream directly into the</p> <p>9 Delaware river. That would be Pennsylvania's</p> <p>10 version of a NJPDES permit -- a national pollutant</p> <p>11 discharge elimination permit, or some type of</p> <p>12 approval to discharge that wastewater into the</p> <p>13 Philadelphia sewer system.</p> <p>14 Q. Meaning a Philadelphia licenser</p> <p>15 permit?</p> <p>16 A. Yes, from the City of Philadelphia,</p> <p>17 right.</p> <p>18 Q. Would DeRewal, at this time, have had</p> <p>19 to have had any New Jersey transportation permits</p> <p>20 for hauling waste to the Wissinoming facility?</p> <p>21 A. Yes.</p> <p>22 Q. And what would he have had to have?</p> <p>23 A. Under the 1974 regulations, the</p> <p>24 hauler is required to have been part of a</p> <p>25 registration program.</p>
<p style="text-align: right;">171</p> <p>1 from Curley -- an internal memo in his -- to one of</p> <p>2 his supervisors about the status of the disposal of</p> <p>3 their hazardous waste.</p> <p>4 Q. Okay. Anything else?</p> <p>5 A. No.</p> <p>6 Q. Other than citing or paraphrasing the</p> <p>7 information contained in the footnote cited</p> <p>8 documents, did you employ any methodology or</p> <p>9 analysis to arrive at the conclusions you make in</p> <p>10 6.2?</p> <p>11 A. No.</p> <p>12 Q. Did you have any personal involvement</p> <p>13 in the events or activities described in section</p> <p>14 6.2?</p> <p>15 A. No.</p> <p>16 Q. Does any specialized knowledge or</p> <p>17 experience on your part underlie the statements you</p> <p>18 make in section 6.2?</p> <p>19 A. No.</p> <p>20 Q. At the end of the first paragraph</p> <p>21 here on page 16, you refer to permits and licenses</p> <p>22 that DeRewal purportedly showed representatives of</p> <p>23 AETC.</p> <p>24 Do you see that section? I think</p> <p>25 it's the last two sentences of the first paragraph.</p>	<p style="text-align: right;">173</p> <p>1 Q. Would DeRewal have had to have had</p> <p>2 any New Jersey licenses or permits to dispose of</p> <p>3 hazardous waste that was picked up in New Jersey?</p> <p>4 A. Well, they would have had to have a</p> <p>5 DOT license to haul hazardous materials.</p> <p>6 Q. Would that be separate from the 1974</p> <p>7 requirement or part of it?</p> <p>8 A. I think it's separate from -- DOT had</p> <p>9 separate regulations regulating trucking of</p> <p>10 hazardous materials. So they would have to have had</p> <p>11 a license or approval from DOT, plus the DEP</p> <p>12 requirement for the registration.</p> <p>13 Q. Registration of what?</p> <p>14 A. The regulations say that all haulers</p> <p>15 need to be registered with the department. I'm not</p> <p>16 sure the regulations go into any further detail than</p> <p>17 that.</p> <p>18 Q. At this time, did a hauler, such as</p> <p>19 DeRewal, who picked up in New Jersey and purportedly</p> <p>20 disposed in Pennsylvania, have to get a New Jersey</p> <p>21 permit for its disposal in another jurisdiction?</p> <p>22 A. I'm not even sure there was a New</p> <p>23 Jersey disposal permit, but the answer is, if it's</p> <p>24 in another jurisdiction, then it wouldn't be their</p> <p>25 responsibility either. The hauler wouldn't, because</p>

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<p style="text-align: right;">174</p> <p>1 they're hauling on New Jersey roads but the disposal 2 is in a different jurisdiction.</p> <p>3 Q. Let me take you back to page eight 4 for just a second. This is under section 4.2.2. 5 it's the third paragraph, where you're talking about 6 the 1974 requirements or the amendments to the 7 hazardous waste regs.</p> <p>8 You say, the hazardous waste 9 generator -- right -- would have to be registered 10 with New Jersey DEP and consign the waste to a solid 11 waste facility registered with and authorized by the 12 New Jersey DEP.</p> <p>13 A. Okay. I got it.</p> <p>14 Q. I know this was with regard to 15 hazardous waste generators as opposed to haulers, 16 but did the New Jersey regulatory scheme require 17 that there be some disclosure of the ultimate 18 disposal site if it was in another state, if you 19 know?</p> <p>20 A. I don't think I know the answer to 21 that question.</p> <p>22 Q. So going back to 6.2, where we left 23 off, it sounds, from what you just testified, that 24 if DeRewal had shown AETC, at this time, all of the 25 necessary permits and licenses, it would have been</p>	<p style="text-align: right;">176</p> <p>1 similar to what evolved into a TSD permit, I don't 2 know if they needed one of them in Pennsylvania in 3 1976.</p> <p>4 Q. What about a hauling registration or 5 permit --</p> <p>6 A. I don't know.</p> <p>7 Q. -- in Pennsylvania?</p> <p>8 Would they have needed -- would he 9 have needed -- "he" meaning DeRewal -- have needed a 10 Philadelphia permit or license for hauling hazardous 11 waste?</p> <p>12 A. I don't know.</p> <p>13 Q. Would any separate federal permits or 14 licenses have been necessary at this time?</p> <p>15 A. Other than the ones we've spoken 16 about, not that I'm aware of.</p> <p>17 Q. In your opinion, did AETC have an 18 obligation to investigate DeRewal in mis-waste (sic) 19 disposal operation under the applicable standards at 20 the time?</p> <p>21 A. Well, their obligation was to their 22 clients, not a regulatory obligation.</p> <p>23 Q. Are you saying that they may have had 24 a contractual obligation with their clients, but 25 there was nothing in the regulatory scheme that</p>
<p style="text-align: right;">175</p> <p>1 at least four; is that right?</p> <p>2 A. (No response.)</p> <p>3 Q. You talked about the discharge 4 permit, the Philadelphia sewer permit, the DOT 5 shipping document, and the -- whatever New Jersey 6 regulations required for the hauler?</p> <p>7 A. For the hauler registration. Okay.</p> <p>8 Q. Anything else that you can think of?</p> <p>9 A. No.</p> <p>10 Q. Now, what is your expert opinion 11 regarding the types of permits or licenses that 12 DeRewal would have needed in Pennsylvania?</p> <p>13 A. Well, the DOT rules, I believe, were 14 nationwide at the time. So they would have needed a 15 similar type of hauling certificate or approval.</p> <p>16 And the two permits we talked about, 17 the one from the City of Philadelphia and one for 18 the discharge, they would have needed -- I don't 19 know of any Pennsylvania permit that they would need 20 for the hazardous waste disposal.</p> <p>21 Q. Would the discharge permit be the 22 hazardous waste disposal permit?</p> <p>23 A. Well, that would be of a discharge.</p> <p>24 What I meant is that for the -- to operate a 25 hazardous waste treatment facility, like a TSD,</p>	<p style="text-align: right;">177</p> <p>1 would require AETC to investigate DeRewal and his 2 methods?</p> <p>3 MR. BARNES: Objection as to form.</p> <p>4 A. Yes, I would -- I would say that.</p> <p>5 Q. You talk about, in 6.2, in the 6 middle, you talk about the permits that DeRewal 7 showed AETC, and measures that AETC did -- 8 implemented to do due diligence on DeRewal.</p> <p>9 In your opinion, did AETC investigate 10 adequately DeRewal and his waste disposal operation?</p> <p>11 A. Well, I think for what the -- I'll 12 call it the standard at the time, that they went and 13 met with DeRewal, they talked to him, they found out 14 what type of systems he had, they looked at the 15 permits -- or they were shown the permits that 16 DeRewal had.</p> <p>17 So the answer is yes, they did due 18 diligence to determine if DeRewal was a legitimate 19 disposal -- transporter and disposal facility.</p> <p>20 Q. Well, I know they did due 21 diligence -- or they purport to -- but in your 22 opinion as an expert on this time period, did they 23 do adequate due diligence of DeRewal, keeping in 24 mind what you wrote earlier in your report about 25 unscrupulous dealers and garbagemen, and the</p>

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<p style="text-align: right;">178</p> <p>1 purported impulse of Leuzarder and Landmesser to 2 kind of clean up the industry? 3 A. Again, given the -- this is 4 pre-superfund, pre-CRCLA (phonetic) now, when the 5 standard of due diligence got a little bit more 6 focused. 7 They saw the types of trucks he 8 hailed, which were acceptable for hauling acid 9 waste. They visited the facility and saw the 10 neutralization facility in Wisconsin. 11 The answer to the question is yes, 12 the standard at the time, I felt they did adequate 13 due diligence. 14 Q. In your opinion, were there any other 15 measures that AETC could have taken to investigate 16 DeRewal and his waste disposal methods? 17 MR. BARNES: Objection as to form. 18 A. Are you putting me in a time frame or 19 are you putting me at year 2006? 20 Q. I'm asking you today, given your -- 21 A. Given 20/20 hindsight? 22 Q. Given your expert knowledge of waste 23 disposal practices at the time, sitting here today, 24 do you believe that AETC could have taken -- 25 reasonably taken additional measures for</p>	<p style="text-align: right;">180</p> <p>1 MS. MOONEY: Can you read it back? 2 (The following question is read back: 3 "Question: In the 1976/1977 time 4 period, were you aware of other brokering services 5 that were similar to AETC?") 6 Q. Let me clarify. In the 1976/1977 7 time frame, were you aware, at that time, of any 8 brokering services along the lines of what AETC did? 9 A. I was not aware. I was just ignorant 10 of it. 11 Q. And would that apply also to other 12 states as well? 13 A. Yes. 14 Q. In other words, you didn't know of 15 any brokering services along those lines in 16 Pennsylvania? 17 A. That's correct. 18 Q. Or New York or any other state? 19 A. That's correct. 20 Q. Okay. 21 (Recess taken.) 22 Q. Let's turn to 6.3, which is on page 23 17. Why don't you take a minute and just look over 24 that. It goes to page 18. 25 A. Okay.</p>
<p style="text-align: right;">179</p> <p>1 investigating DeRewal's waste disposal methods? 2 MR. BARNES: Objection as to form. 3 A. I believe they did appropriate due 4 diligence for the time period. If they rode on 5 DeRewal trucks and followed them around -- all of 6 them around -- and walked around that farm that they 7 visited that turned out to be the superfund site, 8 maybe they would have seen something. But I believe 9 they took adequate care, compared to what other 10 types of facilities were doing that were so very 11 inappropriate. They felt that they found an 12 appropriate transporter and disposal facility for 13 their clients' waste streams. 14 Q. In the 1976 and 1977 time frame, 15 what's your understanding about how many companies 16 in New Jersey -- let's limit it to New Jersey right 17 now -- provided the type of brokering service that 18 AETC provided? 19 A. I don't know. 20 Q. In the 1976/1977 time period, were 21 you aware of other brokering services that were 22 similar to AETC? 23 MR. BARNES: Objection as to form. 24 Is he aware now of what existed in '76, or in '76, 25 was he aware?</p>	<p style="text-align: right;">181</p> <p>1 Q. Okay. Other than the documents cited 2 in the footnotes to 6.3, are there any other factual 3 bases of the statements that you make in this 4 section? 5 A. No. 6 Q. Other than citing or paraphrasing the 7 information contained in the cited documents, did 8 you employ any methodology or analysis to arrive at 9 the conclusions you make in 6.3? 10 A. I would say that page 18, the last 11 sentence of the first paragraph, is my own 12 statement. 13 Q. What is that based on? 14 A. Just an impression I get from 15 Mr. Curley's deposition and the exhibits that he 16 provided -- that were provided to his transcript 17 regarding his internal memoranda to his boss. 18 Q. Okay. Any other factual bases of any 19 of the other statements in 6.3? 20 A. No. 21 Q. Okay. Did you have any personal 22 involvement in the events or activities that you 23 describe in section 6.3? 24 A. No. 25 Q. Does any specialized knowledge or</p>

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<p style="text-align: right;">182</p> <p>1 experience on your part underlie the statements that 2 you make in 6.3?</p> <p>3 A. Again, other than that last sentence 4 of the first paragraph on page 18, no.</p> <p>5 Q. Let's turn to 6.4. What are the 6 factual bases of the statements that you make in 7 6.4?</p> <p>8 A. The footnotes, again, with the 9 deposition transcripts of the two AETC individuals, 10 and of Mr. Michelman, and the one Exhibit, P-52, 11 that were the Diaz bills of lading.</p> <p>12 Q. Okay. Other than citing or 13 re-paraphrasing the information contained in the 14 citations here, did you employ any methodology or 15 analysis to arrive at the conclusions you make in 16 6.4?</p> <p>17 A. Well, if you look at the paragraph on 18 page 19 -- well, I guess it is a paraphrase. I was 19 going to say that, although both had visited Manfred 20 DeRewal at Boarhead Farms, they believed the farm 21 was DeRewal's country residence. AETC never 22 transported any waste to Boarhead Farms, nor did 23 they broker any business deal that contemplated 24 transport of any waste to Boarhead Farms, that is 25 from the transcripts.</p>	<p style="text-align: right;">184</p> <p>1 AETC never transported any waste to 2 Boarhead Farms, nor did they broker any business 3 deal that contemplated transport of any waste to 4 Boarhead Farms.</p> <p>5 The different bills of lading that I 6 reviewed had Wissinoming as the final destination, I 7 believe, on the Diaz bills of lading. So there was 8 this knowledge between AETC and Ashland and Diaz 9 that Wissinoming was where the waste was going.</p> <p>10 Q. I'd like to turn to the conclusions 11 at 6.5. Why don't you review these quickly -- 12 actually, not quickly. Take your time.</p> <p>13 Okay?</p> <p>14 A. Okay.</p> <p>15 Q. Okay. What are the factual bases for 16 the statements you make in 6.5?</p> <p>17 A. All of the documents that we 18 discussed and the rest of section six.</p> <p>19 Q. Anything else?</p> <p>20 A. No.</p> <p>21 Q. What if any specialized knowledge or 22 experience underlies these conclusions in 6.5?</p> <p>23 A. I'm not sure there is any specialized 24 knowledge. It's an evaluation of the facts that I 25 reviewed, and developed a framework for why I</p>
<p style="text-align: right;">183</p> <p>1 Q. Did you have any personal involvement 2 in the events or activities that you describe in 3 6.4?</p> <p>4 A. No.</p> <p>5 Q. Do you have any specialized knowledge 6 or experience that would underlie the statements 7 that you make in 6.4?</p> <p>8 A. No.</p> <p>9 Q. Looking at the first paragraph under 10 6.4 that starts, both Landmesser and Leuzarder --</p> <p>11 A. Got it.</p> <p>12 Q. In your opinion, was the expectation 13 that the nitration acid from Ashland Diaz would be 14 transported to Wissinoming a reasonable expectation?</p> <p>15 A. Yes.</p> <p>16 Q. And why is that?</p> <p>17 A. Well, the acid waste needed 18 specialized equipment to transport, and then to 19 treat strong, highly acidic waste stream. The 20 Wissinoming facility had the equipment and the 21 supplies to do that.</p> <p>22 The discussions with DeRewal were 23 that the waste would be transported to Wissinoming 24 for treatment. That's why they went to the facility 25 to look it over.</p>	<p style="text-align: right;">185</p> <p>1 believe that DeRewal Chemical Company deceived AETC 2 and Ashland and Diaz.</p> <p>3 Q. Did you employ any methodology or 4 analysis to arrive at these conclusions in 6.5?</p> <p>5 A. Other than the distillation of the 6 factual information, no.</p> <p>7 Q. Okay. Looking at D -- 6.5(d) -- what 8 is your understanding regarding the types of 9 equipment and materials that were at the Wissinoming 10 facility?</p> <p>11 A. There was -- there was a storage tank 12 there and a -- some type of mixing tank -- there was 13 a different term for it, but it was a mixing tank 14 where the acid and the lime could be mixed before it 15 was discharged.</p> <p>16 Q. Anything else?</p> <p>17 A. No. In terms of specialized 18 equipment that's all I could recall.</p> <p>19 Q. Okay. Did you personally see this 20 equipment?</p> <p>21 A. No.</p> <p>22 Q. Okay. Where did you get the 23 information that you have regarding the types of 24 equipment and materials that were present at 25 Wissinoming?</p>

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<p style="text-align: right;">186</p> <p>1 A. Curley described it, and either 2 Landmesser or Leuzarder described it. One or the 3 other visited the facility -- I don't remember who 4 offhand -- but I could probably figure it out from 5 the report. But those two individuals described 6 what was present in their depositions. 7 Q. Okay. What specialized knowledge or 8 experience on your part qualifies you to make this 9 statement at D? 10 A. Well, the neutralization of strong 11 acids is a process of adding some type of alkaline 12 material in order to bring the pH of the acid up to 13 a level which is acceptable for discharge. 14 Q. Have you ever had any experience with 15 acid neutralization? 16 A. Yes. 17 Q. In what context? 18 A. It's a wastewater treatment method. 19 We talked about my experience in industrial 20 pretreatment, and that was one of the common methods 21 for neutralizing an acidic or a caustic waste stream 22 before it was discharged. 23 Q. Is it your opinion that the setup at 24 Wisconsin, that was described in the materials 25 that you reviewed, was adequate for the application</p>	<p style="text-align: right;">188</p> <p>1 even had that capability -- there was no capability 2 of transferring that ownership from a generator to a 3 broker under the rules. 4 I recall an agreement between Ashland 5 and AETC that never got signed that talked of 6 transferring the ownership from one to the other. 7 So the statement is based upon documents I reviewed 8 that AETC never accepted ownership of the waste. 9 Q. When you say ownership, do you mean 10 physical possession? 11 A. No, I meant ownership, in the sense 12 that it was not only physical possession, but then 13 their responsibility to address in the rest of the 14 hazardous waste management chain. 15 Q. The second sentence in E, can you 16 explain what you mean by this statement? 17 A. Statement is the decision to utilize 18 DeRewal Chemical Company's treatment facility was 19 made by Ashland and Diaz representatives. 20 Well, I got the impression, from 21 reading the transcripts and looking at the 22 documents, that AETC recommended the use of DeRewal 23 Chemical Company to Ashland and Diaz 24 representatives, and they decided that, yes, it was 25 an acceptable alternative. Let's go for it.</p>
<p style="text-align: right;">187</p> <p>1 that DeRewal was proposing? 2 A. I mean, in theory, it was adequate. 3 You add caustic to an acidic waste stream, it will 4 neutralize it. 5 Q. And in practice though, was this a 6 viable treatment method? 7 A. Oh, sure. In practice, it's a viable 8 treatment method. 9 Q. In the way that was described in the 10 materials that you reviewed? 11 A. Yes, it is a viable treatment method 12 as described. 13 Q. In E -- 6.5(e) -- in the first 14 sentence, what do you mean by ownership of the 15 wastes here? 16 Is this a legal conclusion on your 17 part or something else? 18 A. Certainly it's not a legal 19 conclusion. 20 Q. I'm just asking. 21 A. I'm an engineer. So -- it's a 22 statement based upon the records that I reviewed 23 that there was -- there were no documents that 24 showed that AETC took ownership of the waste, and 25 think I say somewhere else -- and I'm not sure they</p>	<p style="text-align: right;">189</p> <p>1 Q. What is your opinion regarding the 2 nature of the relationship between AETC and DeRewal? 3 A. Other than the brokering of the waste 4 from the generator to DeRewal -- the generators to 5 DeRewal, AETC received a bill from DeRewal for the 6 treatment of the waste, and AETC, in turn, billed 7 the client -- the generators -- for the disposal of 8 the waste. 9 So I think that's the only 10 relationship that AETC and DeRewal had. 11 Q. In your opinion, was AETC's 12 introduction of DeRewal to Ashland and Diaz an 13 indication that AETC made a decision to utilize 14 DeRewal? 15 MR. BARNES: Objection as to form. 16 A. Well, AETC made a decision -- they 17 certainly made a recommendation to the generators, 18 but the generators make the decision of where their 19 waste would be going. 20 Q. Is it your -- 21 A. Maybe I misunderstood your question. 22 Q. You say, in the second sentence of E, 23 on page 19, that the decision to utilize DeRewal was 24 made by the generators. 25 My question is, wasn't AETC's</p>

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<p style="text-align: right;">190</p> <p>1 introduction of DeRewal an indication that AETC made 2 a decision to utilize DeRewal as well? 3 MR. BARNES: Objection as to form. 4 A. Well, AETC's use of DeRewal -- I 5 don't quite understand that term because they -- 6 they brokered the deal between the generator and the 7 transporter and disposal facility to transport the 8 waste from the generator to the disposal facility. 9 They didn't use DeRewal, other than 10 in the context that they were a go-between for the 11 financial part of it -- which is DeRewal charging 12 the generators for the treatment process, and AETC 13 was the go-between -- but they took the bill from 14 DeRewal and they marked it up and then gave it to 15 the generators. 16 Q. Previously in your report, you talk 17 at length about the motivations of AETC in improving 18 handling of waste in New Jersey, and I guess 19 elsewhere, and, also, their due diligence in terms 20 of identifying disposers of hazardous waste. 21 Is it your opinion that AETC would 22 have introduced DeRewal to its customers -- meaning 23 Ashland and Diaz in this case -- had it not approved 24 of DeRewal and his methods? 25 MR. BARNES: Objection as to form.</p>	<p style="text-align: right;">192</p> <p>1 A. If AETC did not approve of them, I 2 presume they would not have recommended it. I think 3 that's fair to say, just from a common sense 4 perspective. 5 AETC -- both individuals at AETC make 6 very strong statements that they try to find the 7 best possible disposal areas, and if they didn't 8 approve of somebody, they just didn't work with 9 them. 10 Q. Okay. All right. Let's turn to the 11 opinions now on page 21. Why don't you look over 12 the opinions. 13 A. Okay. 14 Q. In the first sentence, under 7.0, 15 opinions, you state, based on the documents 16 reviewed, I have -- are those documents reviewed 17 those listed on Appendix B? 18 A. Correct. 19 Q. Any other documents reviewed in 20 connection with this report? 21 A. Other than the regulations that we've 22 talked about, readily available public documents, 23 no. 24 Q. For opinion number one, can you state 25 the precise factual basis for this opinion?</p>
<p style="text-align: right;">191</p> <p>1 A. No. I think that what you said is a 2 fair statement. 3 They approved of DeRewal in the 4 context that they felt DeRewal could handle the 5 waste stream. But they didn't have a capability of 6 telling Ashland, you must take your waste here. 7 This is what you're going to do. 8 They gave a recommendation. This 9 chemical company seems to have the capability of 10 transporting and disposing of your waste stream. Do 11 you want to go with them? 12 I mean, Curley goes through a couple 13 of memos, that were in his exhibits to his 14 deposition, of having several different companies 15 come to him and begging to service Ashland's waste 16 stream, and trying to figure out who to go with and 17 what's the best choice. 18 And so he had choices, and in some 19 cases, he was using two of them at once, if I 20 recall. So he used DeRewal for some period of time. 21 Q. Is it your opinion that AETC would 22 have introduced DeRewal to Ashland and Diaz had it 23 not approved of DeRewal and his methods of waste 24 disposal? 25 MR. BARNES: Objection as to form.</p>	<p style="text-align: right;">193</p> <p>1 MR. BARNES: Objection as to form. 2 There's a lot of sentences there. Do you want to 3 break it up or are you just talking about the whole 4 paragraph? 5 MS. MOONEY: I think a lot of it is 6 going to be documents reviewed. And so if the 7 witness would like me to break it down, I'd be happy 8 to do so. 9 MR. BARNES: I'm trying to make 10 things go along smoother. 11 Q. If you would like to break it down, 12 Mr. Goldstein, that's fine. 13 A. Well, the answer is, it is based upon 14 the documents reviewed. 15 AETC conducted its business in 16 compliance with state-of-the-art hazardous waste 17 management, as it existed in '76 to '77, plus some 18 of the experience that I've had that we've talked 19 about. 20 Q. That we've talked about previously 21 today? 22 A. Correct. 23 Q. Anything else? 24 A. No. 25 Q. Okay. Focusing on that sentence that</p>

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<p style="text-align: right;">194</p> <p>1 you just read, AETC conducted -- which is the last 2 sentence in opinion one -- can you describe the 3 methodology you employed to reach that conclusion? 4 A. Well, I developed a section in the 5 report that discusses the different regulatory 6 requirements in the '76/'77 time frame on a national 7 level, and on a New Jersey level, and on a 8 Pennsylvania level. 9 I talked about what AETC did in the 10 start-up of their company, over that time frame, 11 based upon the documents reviewed. And I concluded 12 that they were good guys and that they were trying 13 to meet regulations when they did their work. 14 Q. Okay. What is -- what if any 15 specialized knowledge or experience underlies that 16 statement, the last sentence of paragraph one? 17 A. Well, I think you have to have some 18 type of regulatory knowledge in order to determine 19 if someone is complying or not complying with rules. 20 So I will go back to my standard answer of my 21 regulatory experience. 22 Q. You had testified earlier that, in 23 your opinion, AETC was not required to comply with 24 any waste management regulations that were in effect 25 in 1976 and 1977.</p>	<p style="text-align: right;">196</p> <p>1 properly and what decisions were made on a day by 2 day basis. 3 The '74 amendments are at least a 4 framework that people had to follow. It's the 5 documents I had available to me. If I had other 6 documents, I could expand on that. But I think that 7 that's what the regulatory community needed to 8 comply with, in 1976 and 1977, were those 9 amendments. 10 Q. In your opinion, what were the 11 respective obligations of AETC and its customers in 12 the brokering relationship? 13 MR. BARNES: Objection as to form. 14 Compound. Can you break that up? 15 MS. MOONEY: Well, I'm talking about 16 the respective obligations of AETC and its 17 customers. 18 MR. BARNES: Are you asking for the 19 obligations of ETC, and then the obligations -- 20 MS. MOONEY: All right. 21 Q. Let me rephrase that, Mr. Goldstein. 22 In your opinion, what was AETC's obligation to its 23 customers in the brokering relationship? 24 A. Well, in simple terms, to ensure that 25 the clients -- the customers complied with</p>
<p style="text-align: right;">195</p> <p>1 How do you give that earlier 2 testimony with this statement, the last sentence of 3 paragraph one? 4 A. Well, it's -- their business is to 5 try to have their customers in compliance with the 6 rules. I think the question you asked about whether 7 they were in compliance was specific to their 8 brokering business. But the state-of-the-art of the 9 hazardous waste management is making sure your 10 customers are in compliance with the generator 11 requirements, the transporter requirements, or the 12 disposal requirements. 13 So that's the message of conclusion 14 number one. 15 Q. When you say, in the beginning of 16 paragraph one, state-of-the-art was best exemplified 17 by the 1974 amendments to the New Jersey code, what 18 do you mean by "best exemplified"? 19 A. Well, I'm sure there were other 20 documents or -- let me start over -- strike that, 21 please. 22 I'm sure there were -- there were 23 people who were involved in the business, in that 24 time frame, could have had even more stories about 25 how things were done and how things were done</p>	<p style="text-align: right;">197</p> <p>1 regulatory requirements, both from the DEP and the 2 DOT. 3 They also seem to have -- a strong 4 component of their business is training the customer 5 on both the regulatory aspects and the chemistry 6 aspects of the particular waste stream, of what 7 equipment to wear, what shipping material to use, 8 which types of trucks to use -- all of these 9 components are part of their business plan, if you 10 will. 11 Q. Okay. And were those -- I understand 12 you to say that there were no regulatory 13 requirements applicable to AETC at that time, is 14 that right? 15 A. As a broker. 16 Q. In any other sense? 17 A. Well, they did do some transport 18 later on. 19 Q. Leaving that aside, leaving the 20 transport aside -- 21 A. Well, again, for '76 to '77, as a 22 broker, that's what my answer is. 23 Q. Okay. And what is your opinion 24 regarding the obligations of AETC's customers in 25 this brokering relationship they have with AETC?</p>

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<p style="text-align: right;">198</p> <p>1 A. Obviously, they have the obligation 2 to have knowledge of where the waste is going. They 3 had to fill out the bill of lading, under the DOT 4 requirements, and the DEP requirements, that we 5 discussed, that the DEP eventually evolved into a 6 manifest system; but the pre-manifest system of just 7 making sure that the type of waste, the volume of 8 waste and the consignee was listed on the bills of 9 lading.</p> <p>10 Q. Okay. And is it your opinion that 11 AETC's customers were subject to regulatory 12 requirements, as opposed to just contractual 13 obligations?</p> <p>14 A. Yes.</p> <p>15 Q. When you refer to customers in 16 opinion one -- let's see where is it -- it's the 17 second sentence, based on the documents reviewed, do 18 you see that, AETC's customers --</p> <p>19 A. Yes.</p> <p>20 Q. -- customers, does that word refer to 21 Ashland and Diaz?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Is it your opinion that AETC, 24 in 1976 and 1977, should have been subject to 25 regulatory requirements?</p>	<p style="text-align: right;">200</p> <p>1 information source, they wouldn't have been in 2 business. But, obviously, they were pretty 3 successful at it.</p> <p>4 People used them, and they worked 5 hard at it. But in terms of their ability or the 6 necessity to regulate that type of firm, I don't see 7 the value.</p> <p>8 Q. Very good. At the end of the first 9 sentence, in number one, you refer to -- let's 10 see -- at the very end -- and consign the waste 11 stream to an approved hauler and waste -- it's kind 12 of in the -- it's along sentence.</p> <p>13 A. Consign the waste stream --</p> <p>14 Q. -- to an approved hauler and waste 15 disposal facility.</p> <p>16 A. Yes.</p> <p>17 Q. Focusing on that language -- approved 18 hauler and disposal facility -- in your opinion, was 19 DeRewal Chemical Company an approved hauler and 20 disposal facility?</p> <p>21 MR. PETTTT: Objection to form.</p> <p>22 A. Based on the testimony that I 23 reviewed, that they provided adequate or appropriate 24 permits to AETC's representatives, they felt it was 25 an approved hauler and disposal facility.</p>
<p style="text-align: right;">199</p> <p>1 MR. BARNES: Objection as to form. 2 I'm not also sure that -- well --</p> <p>3 MS. MOONEY: This is an expert 4 regulator. You're presenting him as an expert.</p> <p>5 MR. BARNES: I withdraw the 6 objection, other than as to form.</p> <p>7 Q. Okay.</p> <p>8 A. Is it my opinion that AETC should 9 have been subject to some regulatory requirements?</p> <p>10 Q. In 1976 and 1977.</p> <p>11 A. I don't think so. It's a very -- 12 that's a very odd question, and my best answer is, I 13 don't think so.</p> <p>14 Q. Okay. And why do you not think so?</p> <p>15 A. Well, 'cause they never owned or 16 transported the waste. Again, leaving ownership 17 aside -- 'cause especially with the judge's 18 decision -- I don't want to dabble in questioning 19 the judge's decision -- but AETC didn't generate the 20 waste. They didn't transport the waste -- again, 21 for this time period -- and didn't dispose of the 22 waste. And those are the aspects that the program 23 was meant to -- meant to regulate.</p> <p>24 As a broker, they were an information 25 source, and if they didn't do a good job of being an</p>	<p style="text-align: right;">201</p> <p>1 I have no personal knowledge of 2 DeRewal, other than what I've read in the documents. 3 So they felt it was an approved hauler and disposal. 4 That's why they recommended to their customers to 5 use them.</p> <p>6 Q. In your expert opinion, did AETC have 7 the responsibility to ensure that DeRewal Chemical 8 Company was an approved waste disposal facility?</p> <p>9 THE WITNESS: Could you read back the 10 question?</p> <p>11 (The following question is read back: 12 "Question: In your expert opinion, 13 did AETC have the responsibility to ensure that 14 DeRewal Chemical Company was an approved waste 15 disposal facility?")</p> <p>16 MR. BARNES: Objection as to form.</p> <p>17 A. As a responsibility to their 18 customers, yes.</p> <p>19 Q. Do you feel that they fulfilled that 20 responsibility?</p> <p>21 A. Well, we talked about that prior, and 22 my answer was that AETC fulfilled a due diligence 23 for that time period, in terms of investigating 24 DeRewal, felt they had the appropriate permits based 25 upon what DeRewal represented to them and showed</p>

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<p style="text-align: right;">202</p> <p>1 them, and had the equipment to manage and transport 2 and dispose of the material. 3 So the answer is yes. 4 Q. That's the answer to a different 5 question, I think. 6 A. Okay. 7 Q. What my question was, in your expert 8 opinion, did AETC have the responsibility to ensure 9 that DeRewal Chemical Company was an approved hauler 10 and waste disposal facility? 11 A. I'm not sure I know what you mean by 12 "ensure". 13 Q. It sounds like what you're saying is 14 they did adequate due diligence of DeRewal Chemical 15 Company? 16 A. Yes. 17 Q. By ensure, I mean determine, with 18 finality, that DeRewal was conducting his operation 19 in compliance with all applicable regulations. 20 A. Well, finality is a fairly strong 21 word. Even today, if you consign a waste to 22 someone, I don't go -- I try to do due diligence for 23 my customers and find out where waste is going, but 24 I don't ride on the truck. 25 That truck could very well make a</p>	<p style="text-align: right;">204</p> <p>1 what they should have done, sitting here in 2006? 2 Q. No. No. At the time. As an expert 3 in the regulatory requirements in 1976 and 1977, is 4 it your opinion that the accuracy or validity of 5 those purported permits should have been verified? 6 A. I think, at that time frame, what 7 they did was very appropriate. I don't think that 8 the scope of the hazardous waste dumping or dis -- 9 improper disposal was as well-known across-the-board 10 in all states as it is now, or was a few years after 11 the '76/'77 time frame. 12 So they saw permits. They thought 13 they were acceptable. And they followed through on 14 it. 15 Q. What is the specialized knowledge or 16 experience that qualifies you to testify regarding 17 the state-of-the-art of hazardous waste management 18 in 1976 and 1977? 19 A. My ability to understand regulations 20 by being in the field for the years after '76/'77, 21 which had similar -- although not precisely the 22 same -- conditions at the time. 23 Just knowledge of the state of -- I'm 24 repeating myself -- knowledge of the state of the 25 hazardous waste management program at that time</p>
<p style="text-align: right;">203</p> <p>1 left turn, when it should make a right turn, and end 2 up in a field somewhere. 3 You're almost saying that it's a 4 guarantee that DeRewal was on the up-and-up at 5 all -- their disposal facilities were on the 6 up-and-up to ensure with finality that they were 7 doing things in a proper manner. 8 You do things to a point when you're 9 satisfied as a professional that things are okay. 10 AETC did that. They didn't ride on all the trucks 11 obviously. Otherwise, there wouldn't have been the 12 superfund site. 13 But an awfully lot of people were 14 deceived by DeRewal. But AETC did what they needed 15 to do to feel comfortable that this was an 16 acceptable disposal and transport facility. 17 Q. Do you think it would have been 18 reasonable for AETC to check the accuracy of the 19 permits that were purportedly shown to them by 20 DeRewal? 21 MR. BARNES: Objection as to form. 22 A. Well, I -- in the 1976/'77 time 23 frame, they obviously accepted what they saw as 24 appropriate permits. 25 You want me to say, in hindsight,</p>	<p style="text-align: right;">205</p> <p>1 period. 2 Q. Opinion number three, turning your 3 attention to that quickly, why don't you take a 4 second to look at that. 5 A. Okay. 6 Q. I'm going to show you an exhibit that 7 was previously marked in this case as P-52. 8 MR. BARNES: Are you going to mark it 9 for this deposition? 10 MS. MOONEY: No, I'm going to leave 11 it as P-52. 12 Q. And I'm going to direct your 13 attention to -- well, first of all, your counsel 14 presented this to me today as one of the documents 15 that you had tabbed in your review of the files here 16 at Wolff and Samson when you were researching 17 information for this report. 18 Do you recognize this document? 19 A. Yes. 20 Q. Okay. What is it? 21 A. It's a bill of lading from the Diaz 22 Chemical Corporation. 23 Q. Okay. I am going to direct your 24 attention to a line at the top that says, consigned 25 to. And then it says, Advanced Environmental Tech</p>

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<p style="text-align: right;">206</p> <p>1 Corporation - Milford, New Jersey.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. In your review of the bills of lading</p> <p>5 at Wolff and Samson, in preparation for your expert</p> <p>6 report, did you note that this bill of lading</p> <p>7 consigned, to Advanced Environmental Technology</p> <p>8 Corporation, the waste?</p> <p>9 A. (No response.)</p> <p>10 Q. I'll restate it. When you reviewed</p> <p>11 this document in preparation for writing your</p> <p>12 report, did you note that the bill of lading</p> <p>13 consigns the waste to AETC?</p> <p>14 A. Yes.</p> <p>15 Q. In your opinion, does this constitute</p> <p>16 evidence that AETC took ownership of hazardous waste</p> <p>17 from Ashland -- not Ashland -- from Diaz Chemical?</p> <p>18 A. It is my opinion that it does not.</p> <p>19 Q. Why is that?</p> <p>20 A. Well, my understanding of the word</p> <p>21 "consigned" is that it's -- it's that the waste is</p> <p>22 passed along to the consignee to be managed for the</p> <p>23 generator -- for the consignor.</p> <p>24 Q. I'm sorry, what was that?</p> <p>25 A. For the -- to manage the waste for</p>	<p style="text-align: right;">208</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. What is the precise experience or</p> <p>4 knowledge that you have as a regulator that</p> <p>5 qualifies you to render this statement?</p> <p>6 A. The experience that I've had is that</p> <p>7 the -- especially since the days of the manifest</p> <p>8 program, that the generator has the ownership of the</p> <p>9 waste until such time as it's no longer a waste.</p> <p>10 Again, I say it as a regulator, but</p> <p>11 not as an attorney. So that it can't be -- that the</p> <p>12 ownership of a waste can't be transferred by, let's</p> <p>13 say, a contractual arrangement between the generator</p> <p>14 of the waste and a transporter or a broker or a</p> <p>15 disposal facility.</p> <p>16 That the way the regulations read,</p> <p>17 the generator is the owner throughout. The</p> <p>18 transporter has certain responsibilities once they</p> <p>19 take the waste. The disposal or treatment facility</p> <p>20 have a certain responsibility. But the ownership of</p> <p>21 the waste is still the generator.</p> <p>22 Okay. I'll caveat that with the</p> <p>23 judge's decision, which is a little bit beyond my</p> <p>24 ken as a regulator or as an engineer to understand</p> <p>25 fully, but this is the -- what I wrote in the</p>
<p style="text-align: right;">207</p> <p>1 the consign -- consign -- I got my "consignee",</p> <p>2 "consignor" -- that AETC was going to manage the</p> <p>3 waste for the generator. That's what the purpose of</p> <p>4 consigned is.</p> <p>5 Now, AETC didn't really do anything</p> <p>6 with the waste. DeRewal is the one who transported</p> <p>7 the waste to the Philadelphia facility that's listed</p> <p>8 in destination.</p> <p>9 So the bill of lading, by my</p> <p>10 understanding of the term, is improper. That it</p> <p>11 shouldn't have been saying, consigned to AETC. It</p> <p>12 should have said, consigned to DeRewal for the</p> <p>13 transport of the waste, and then to Philadelphia.</p> <p>14 AETC simply set up the arrangement</p> <p>15 with -- or brokered the contractual deal between</p> <p>16 Diaz and DeRewal, and then passed along some costs.</p> <p>17 So maybe I don't understand the word "consigned"</p> <p>18 accurately, but I would feel that this was -- it was</p> <p>19 typed inaccurately.</p> <p>20 Q. Okay. In number three -- opinion</p> <p>21 number three on page 21, you say, based on my</p> <p>22 experience as a regulator, it is my opinion that the</p> <p>23 ownership of the hazardous waste could not pass from</p> <p>24 a generator to another party under waste management</p> <p>25 regulations.</p>	<p style="text-align: right;">209</p> <p>1 opinion.</p> <p>2 Q. Opinion number two, what is the</p> <p>3 factual basis of opinion number two?</p> <p>4 A. Again, you are talking about which</p> <p>5 documents?</p> <p>6 Q. Is it just the documents that appear</p> <p>7 in Appendix B?</p> <p>8 A. Yes.</p> <p>9 Q. Anything else?</p> <p>10 A. No. It's just the documents.</p> <p>11 Q. Okay. In opinion number four, are</p> <p>12 there any factual bases for opinion number four,</p> <p>13 other than the documents that appear in Appendix B?</p> <p>14 A. No.</p> <p>15 Q. I am going to go through -- now I am</p> <p>16 going to go through some documents that were</p> <p>17 provided to me by Mr. Sabino, who represented that</p> <p>18 these were documents from your work file --</p> <p>19 A. Okay.</p> <p>20 Q. -- in connection with the creation of</p> <p>21 the expert report. I have copies for everybody.</p> <p>22 (Two-page document list is marked as</p> <p>23 Exhibit Goldstein-2 for Identification.)</p> <p>24 Q. Do you recognize this document,</p> <p>25 Mr. Goldstein?</p>

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<p style="text-align: right;">210</p> <p>1 A. Yes.</p> <p>2 Q. Can you describe what it is?</p> <p>3 A. It's a list of documents that are</p> <p>4 available at the information resource center of the</p> <p>5 New Jersey DEP, which is their library.</p> <p>6 Q. Their -- New Jersey DEP?</p> <p>7 A. Yes.</p> <p>8 Q. How did you get this document?</p> <p>9 A. The librarian sent it to me.</p> <p>10 Q. Okay. Was this one -- was this the</p> <p>11 list of documents that the New Jersey DEP library</p> <p>12 sent to you when you had requested the waste -- I</p> <p>13 can't remember the name of the periodical --</p> <p>14 A. Waste Age.</p> <p>15 Q. -- Waste Age?</p> <p>16 A. They actually sent me a longer list.</p> <p>17 That's why some of the record numbers are staggered.</p> <p>18 I picked out these and sent it back</p> <p>19 to them and said, could you please look up records</p> <p>20 two, three, seven, nine, 11 and 15, and they sent</p> <p>21 this back to me that says, these documents are</p> <p>22 available for your review.</p> <p>23 Q. Are these check marks your check</p> <p>24 marks?</p> <p>25 A. No.</p>	<p style="text-align: right;">212</p> <p>1 A. I didn't copy them. I went to look</p> <p>2 at these at the library, and I copied the two</p> <p>3 reports to Congress. I think that's the records 11</p> <p>4 and 15.</p> <p>5 Q. I see.</p> <p>6 A. But the others, I didn't feel were</p> <p>7 valuable. So they're still at the library.</p> <p>8 (Report to the Congress dated 1/23/79</p> <p>9 is marked as Exhibit Goldstein-3 for</p> <p>10 Identification.)</p> <p>11 Q. I'm going to show you another</p> <p>12 document that your counsel provided.</p> <p>13 Do you recognize this document?</p> <p>14 A. Yes.</p> <p>15 Q. Can you describe what it is?</p> <p>16 A. Title is, report to the Congress by</p> <p>17 the controller general of the United States. Title</p> <p>18 is, hazardous waste management programs will not be</p> <p>19 effective. Greater efforts are needed. Dated</p> <p>20 January 23, 1979.</p> <p>21 Q. Okay. Did you use this document in</p> <p>22 the preparation of your expert report?</p> <p>23 A. Yes.</p> <p>24 Q. How did you use this document in</p> <p>25 preparing your expert report?</p>
<p style="text-align: right;">211</p> <p>1 Q. Are they the New Jersey DEP's</p> <p>2 librarian check marks?</p> <p>3 A. I don't know.</p> <p>4 Q. Did they come from New Jersey DEP?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. The notation at the top, F --</p> <p>7 I think that's four -- but it's blotted out on my</p> <p>8 copy -- Ken Goldstein, is that something that you</p> <p>9 wrote?</p> <p>10 A. No.</p> <p>11 Q. Is that something that New Jersey DEP</p> <p>12 wrote?</p> <p>13 A. No -- I don't know.</p> <p>14 Q. Did it come back with that from New</p> <p>15 Jersey DEP?</p> <p>16 A. Yes.</p> <p>17 Q. Did you review any of these entries</p> <p>18 in preparation for your expert report?</p> <p>19 A. Yes.</p> <p>20 Q. You reviewed these documents?</p> <p>21 A. Yes.</p> <p>22 Q. Did you provide them to your counsel,</p> <p>23 too?</p> <p>24 A. I didn't get copies. I'm sorry.</p> <p>25 Q. Go ahead.</p>	<p style="text-align: right;">213</p> <p>1 A. There were certain references in here</p> <p>2 that I felt were valuable for the state-of-the-art</p> <p>3 section of the report.</p> <p>4 Q. Is that section five of your report?</p> <p>5 A. (No response.)</p> <p>6 Q. Do you mean the section that's</p> <p>7 captioned, state-of-the-art?</p> <p>8 A. (No response.)</p> <p>9 Q. I think that's four actually.</p> <p>10 A. Yes, 4.1.</p> <p>11 Q. Okay. Can you pinpoint any of the</p> <p>12 precise conclusions or opinions in your report that</p> <p>13 this helped to form the basis of, this document?</p> <p>14 A. You mean specific, not general?</p> <p>15 Q. If it's footnoted, that's fine. I</p> <p>16 mean, that's easily ascertainable.</p> <p>17 But other than -- if you can recall,</p> <p>18 other than the footnoted sections, do you recall any</p> <p>19 other conclusions, statements, opinions that this</p> <p>20 would form the basis of?</p> <p>21 A. None of the other conclusions -- I</p> <p>22 footnoted this document pretty thoroughly, so I</p> <p>23 think it's pretty clear where I used this.</p> <p>24 Q. Okay. Did you read this entire</p> <p>25 report of Congress that's been entered as G-3 or</p>

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<p style="text-align: right;">214</p> <p>1 Goldstein-3?</p> <p>2 A. Yes.</p> <p>3 MS. MOONEY: All right. Can you mark</p> <p>4 this Goldstein-4?</p> <p>5 (E-mail dated 8/8/06, with</p> <p>6 attachments, is marked as Exhibit Goldstein-4 for</p> <p>7 Identification.)</p> <p>8 Q. I'm going to show you what's been</p> <p>9 marked as Goldstein-4. I'm showing you a document</p> <p>10 that's been marked as Goldstein-4.</p> <p>11 Let me know when you've had a chance</p> <p>12 to review it.</p> <p>13 A. I'm done.</p> <p>14 Q. Okay. Do you recognize, I guess, the</p> <p>15 e-mail at the bottom that says, name, Ken Goldstein,</p> <p>16 and provides some identifying information --</p> <p>17 A. Yes.</p> <p>18 Q. -- with regard to you?</p> <p>19 Did you type that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Is this the request for</p> <p>22 information that you sent to New Jersey DEP for</p> <p>23 documents pertaining to waste regulations in '76 and</p> <p>24 '77?</p> <p>25 A. Yes. Actually, the request went to</p>	<p style="text-align: right;">216</p> <p>1 for the opinions.</p> <p>2 Q. Just those two, or are there other</p> <p>3 ones that you --</p> <p>4 A. No, just those two. There was</p> <p>5 nothing in the other documents that I found</p> <p>6 valuable.</p> <p>7 Q. Okay.</p> <p>8 (E-mail dated 7/14/06, with</p> <p>9 attachments, is marked as Exhibit Goldstein-5 for</p> <p>10 Identification.)</p> <p>11 Q. I'm showing you a document that's</p> <p>12 been marked Goldstein-5. Take a second and look</p> <p>13 over those, if you would.</p> <p>14 MR. BARNES: Just so the record is</p> <p>15 clear, it appears to be more than one document.</p> <p>16 MS. MOONEY: Yes.</p> <p>17 Q. Goldstein-5 is a collection of</p> <p>18 several e-mail memos/messages that are the e-mail</p> <p>19 correspondence that your attorney, Mr. Sabino,</p> <p>20 provided from your work file to me in this case.</p> <p>21 A. That's correct. Okay.</p> <p>22 Q. Do you recognize these e-mails?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Referring to the first</p> <p>25 page of Goldstein-5, it's an e-mail from Andrew</p>
<p style="text-align: right;">215</p> <p>1 the state library, and it was more than just</p> <p>2 regulations.</p> <p>3 So -- but otherwise, yes, this is the</p> <p>4 reply that came back from the state, the DEP</p> <p>5 library. They must have some type of internal</p> <p>6 process to forward these requests.</p> <p>7 Q. Are the documents -- did you make the</p> <p>8 circles on the records that are in the attachment to</p> <p>9 the e-mail in this document?</p> <p>10 A. Yes.</p> <p>11 Q. And what do those circles indicate?</p> <p>12 A. Those are the documents -- well, the</p> <p>13 records that I wanted to see.</p> <p>14 Q. And I think you testified earlier</p> <p>15 that you reviewed the circled documents, but didn't</p> <p>16 copy them, except that you copied the congressional</p> <p>17 reports; is that right?</p> <p>18 A. Yeah, the controller's reports,</p> <p>19 that's correct.</p> <p>20 Q. All right. Of these circled</p> <p>21 documents, did they form the basis of any opinions</p> <p>22 in your report?</p> <p>23 A. Well, yeah. The records 11 and 15</p> <p>24 are the -- is the two documents, Goldstein-3. So</p> <p>25 the answer is yes, they helped provide the framework</p>	<p style="text-align: right;">217</p> <p>1 Waring to Kenneth Goldstein dated July 14, 2006. It</p> <p>2 refers to -- well, Mr. Waring says, Ken, see me</p> <p>3 about this, in the body.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Is "Ken" you?</p> <p>7 A. Yes.</p> <p>8 Q. Did you end up seeing Ken about this?</p> <p>9 A. Seeing Ken? I'm Ken.</p> <p>10 Q. I mean Mr. Waring. Did you end up</p> <p>11 seeing Mr. Waring about this?</p> <p>12 A. Yes.</p> <p>13 Q. What was the -- what was the subject</p> <p>14 of your meeting?</p> <p>15 A. I think I testified earlier that</p> <p>16 Mr. Sabino and Mr. Waring had some type of previous</p> <p>17 work together, and Tom sent the e-mail, on the</p> <p>18 bottom, to Drew to discuss this, the AETC project</p> <p>19 with Drew. And then that's what Mr. Waring and I</p> <p>20 talked about.</p> <p>21 Q. Okay. Can you recall any specifics</p> <p>22 from what you discussed at that meeting?</p> <p>23 MR. BARNES: Objection. Asked and</p> <p>24 answered.</p> <p>25 A. It's just what's here.</p>

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<p style="text-align: right;">218</p> <p>1 Q. Was there any outcome from that 2 meeting?</p> <p>3 A. Well, we talked -- Andrew and I 4 talked about the -- whether or not I would be 5 comfortable being an expert in this project. 6 I think we talked about this, and I 7 said, it sounds fine, that I'd be a better expert 8 because of my regulatory experience. 9 So that was the gist of that 10 conversation.</p> <p>11 Q. Does Mr. Waring -- you might have 12 answered this, it slipped my mind -- does Mr. Waring 13 have any regulatory experience?</p> <p>14 MR. BARNES: Objection. Asked and 15 answered.</p> <p>16 A. I don't recall. I don't think so but 17 I don't recall.</p> <p>18 Q. The second page is an e-mail from 19 Mr. Sabino to Andrew Waring, with a cc to you. The 20 body refers to a meeting that he's trying to set 21 up -- "he", meaning Mr. Sabino -- on July 28th. 22 Do you recall whether or not that 23 meeting ever went forward?</p> <p>24 A. It was a call, if I recall properly, 25 and I believe it did take place. I can't guarantee</p>	<p style="text-align: right;">220</p> <p>1 there's an e-mail -- embedded e-mail from you, 2 Kenneth Goldstein, to Tom Sabino. Is this -- the 3 body of this message that you wrote to Tom were 4 arrangements for the review of the files that you 5 did here at Wolff and Samson?</p> <p>6 A. Yes.</p> <p>7 Q. We talked about what you reviewed 8 there. Some of this, we've already covered, so I'm 9 just going to skip it.</p> <p>10 Couple pages further on, this e-mail 11 is dated -- the top e-mail is September 7, 2006, to 12 Kenneth Goldstein from Tom Sabino, re Boarhead Farm. 13 And then there's an embedded message from Kenneth 14 Goldstein to Tom Sabino, and the subject is, 15 Boarhead Farm.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. In the body of that text, did you 19 write this?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. You write, in the very middle, 22 but I am in the process of reworking the 23 AETC/DeRewal section, which is probably the key to 24 the report. 25 Why do you say that that section is</p>
<p style="text-align: right;">219</p> <p>1 it took place on that date, but it was very close to 2 that time frame.</p> <p>3 Q. Okay. Do you recall the substance of 4 that meeting?</p> <p>5 A. We talked about that earlier today. 6 This was the discussion where Mr. Sabino gave an 7 overview of the project, and generally talked about 8 the fact that I would be the expert and not 9 Mr. Waring.</p> <p>10 Q. Got you. Any outcome from that 11 meeting?</p> <p>12 A. Yes. We decided that there were 13 files at Wolff and Samson that somebody from Ransom 14 would come up and review. I think either a 15 subsequent e-mail or discussion, we picked a date 16 when I would come up, but that was it.</p> <p>17 That was all, and that's the call 18 that Mr. Simon attended briefly.</p> <p>19 Q. Skip the next e-mail, if you would. 20 Direct your attention to one from Tom Sabino, dated 21 August 8, 2006, to Kenneth Goldstein, re AETC's SJ 22 motion.</p> <p>23 Do you see that one?</p> <p>24 A. Right.</p> <p>25 Q. If you look halfway down that page,</p>	<p style="text-align: right;">221</p> <p>1 the key to the report?</p> <p>2 A. Well, that section of the report is 3 the one that discusses how AETC got to know DeRewal, 4 how they introduced DeRewal to their customers, how 5 the different logistics of the brokering deal went 6 forward from the generator to transporter to 7 disposal facility, and then how the problems 8 occurred at the end of the day.</p> <p>9 Q. And that, in your opinion, is the key 10 to the report?</p> <p>11 MR. BARNES: Objection as to form. 12 I'm not quite sure that that's what it says there.</p> <p>13 A. Well, I think, in terms of the 14 contents of the report, I think it is a key.</p> <p>15 Whether it's the key now -- or the 16 conclusions are probably the key now -- that's -- I 17 don't think that makes that much difference. But at 18 the time, I thought it was the key.</p> <p>19 Q. Okay. Fair enough. A couple more 20 e-mails further on, this one is dated September 27, 21 2006. It's from Ken Goldstein to Tom Sabino, re 22 report. It's the top half of the page.</p> <p>23 Do you see that one?</p> <p>24 A. Yes.</p> <p>25 Q. You write -- did you write this</p>

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<p style="text-align: right;">222</p> <p>1 e-mail here? It's the second one on the page.</p> <p>2 A. Yes.</p> <p>3 Q. It says, original message, Ken</p> <p>4 Goldstein, Wednesday, September 26, 2006, 2:02 p.m.</p> <p>5 to Sabino, Thomas, subject, re report.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Did you write that message?</p> <p>9 A. Yes.</p> <p>10 Q. What are you referring to there,</p> <p>11 where you say, okay, but shouldn't it be 1976/'77?</p> <p>12 A. Tom and I had a discussion about</p> <p>13 certain aspects of the -- about a certain sentence</p> <p>14 in the report, and it was probably an e-mail, but I</p> <p>15 could not find it -- despite the fact I seem to have</p> <p>16 found a lot of things on my e-mail server -- but he</p> <p>17 referred to an event that occurred, and he had the</p> <p>18 wrong dates. I think he had '96/'97 on it.</p> <p>19 So I clarified. I said okay to his</p> <p>20 comment, but shouldn't it be '76 to '77?</p> <p>21 Now, I went back and looked, 'cause</p> <p>22 this certainly is -- begs a question of what I'm</p> <p>23 talking about, but I don't remember what it was. I</p> <p>24 couldn't find it. Otherwise, I would have produced</p> <p>25 it.</p>	<p style="text-align: right;">224</p> <p>1 find them particularly useful to the project. They</p> <p>2 didn't have the same type of dates and involvement</p> <p>3 that the New Jersey regulations had.</p> <p>4 So it was very hard to figure out</p> <p>5 when they were prom -- that particular set was</p> <p>6 promulgated.</p> <p>7 So I read them and I put them aside.</p> <p>8 They're probably in the work file, but I haven't</p> <p>9 looked at them since.</p> <p>10 Q. You can put Goldstein-5 to the side.</p> <p>11 (Final report of the Pennsylvania</p> <p>12 Sanitary Water Board is marked as Exhibit</p> <p>13 Goldstein-6 for Identification.)</p> <p>14 Q. Do you recognize this document that's</p> <p>15 been marked Goldstein-6?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Can you tell me what it is?</p> <p>18 A. I got this off the Internet when I</p> <p>19 was first working on the project. It's a document</p> <p>20 called, Final Report of the Pennsylvania Sanitary</p> <p>21 Water Board, May 1971 -- I'm sorry, that's not part</p> <p>22 of the title.</p> <p>23 That's the heading for one of the</p> <p>24 subsections. The title is 1923 to 1971.</p> <p>25 Q. Did you obtain this document in order</p>
<p style="text-align: right;">223</p> <p>1 Q. Fair enough. Next page is an</p> <p>2 e-mail -- an embedded e-mail from Kenneth Goldstein</p> <p>3 to Tom Sabino dated September 27, 2006, 1:06 p.m.,</p> <p>4 subject, report.</p> <p>5 Do you see those?</p> <p>6 A. Yes.</p> <p>7 Q. Did you write this e-mail?</p> <p>8 A. Yes.</p> <p>9 Q. You refer, in the body of the</p> <p>10 message, to -- you say, if I am ever deposed, I will</p> <p>11 have more info at my fingertips, but I will not have</p> <p>12 it for another one to two weeks.</p> <p>13 What do you mean by -- not the</p> <p>14 ungrammatical part of it, but what do you mean</p> <p>15 substantively by it?</p> <p>16 A. Thank you.</p> <p>17 MR. BARNES: Objection as to form.</p> <p>18 A. This is the Pennsylvania regulations</p> <p>19 that I referred to earlier that I did not receive</p> <p>20 prior to the production of the report, but I did</p> <p>21 receive them subsequent to the report.</p> <p>22 Q. Did you review those Pennsylvania</p> <p>23 regulations in preparation for the deposition today?</p> <p>24 A. I reviewed them when I got them. I</p> <p>25 did not review them in preparation, because I didn't</p>	<p style="text-align: right;">225</p> <p>1 to render an opinion or a conclusion in your expert</p> <p>2 report?</p> <p>3 A. From the title, I thought it might be</p> <p>4 useful. It turns out that it was not, and it's been</p> <p>5 sitting happily in my file ever since. I have not</p> <p>6 used it.</p> <p>7 Q. So this did not form a basis in</p> <p>8 anything in your expert report, is that right?</p> <p>9 A. That's correct.</p> <p>10 Q. Put that to the side.</p> <p>11 (Pennsylvania Bulletin, Volume 20, is</p> <p>12 marked as Exhibit Goldstein-7 for Identification.)</p> <p>13 Q. Do you recognize this document,</p> <p>14 Mr. Goldstein?</p> <p>15 A. Yes.</p> <p>16 Q. Can you describe what it is?</p> <p>17 A. It's from the Pennsylvania Bulletin,</p> <p>18 dated -- excuse me -- Volume 20, number six,</p> <p>19 Saturday, February 10, 1990, Harrisburg, PA.</p> <p>20 Q. And -- sorry -- go ahead.</p> <p>21 A. I was just going to describe it.</p> <p>22 It's a description of changes to codification of</p> <p>23 certain rules and regulations.</p> <p>24 Q. Did you use this document in</p> <p>25 preparing your expert report?</p>

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<p style="text-align: right;">226</p> <p>1 A. No.</p> <p>2 Q. Did you receive this document prior</p> <p>3 to writing your expert report and submitting it in</p> <p>4 this case?</p> <p>5 A. No.</p> <p>6 Q. Did you receive it after you</p> <p>7 submitted your expert report in this case?</p> <p>8 A. Yes.</p> <p>9 Q. All right. So did this form the</p> <p>10 basis of anything in your expert report?</p> <p>11 A. No.</p> <p>12 Q. Okay. Put that to the side.</p> <p>13 (Chapter 75, solid waste management</p> <p>14 rules and regulations, Pennsylvania, is marked as</p> <p>15 Exhibit Goldstein-8 for Identification.)</p> <p>16 Q. Do you recognize this document?</p> <p>17 A. Yes.</p> <p>18 Q. Can you describe what it is?</p> <p>19 A. It is Chapter 75, solid waste</p> <p>20 management rules and regulations, State of</p> <p>21 Pennsylvania.</p> <p>22 Q. Okay. Did you use this document in</p> <p>23 preparing your expert report in this case?</p> <p>24 A. No.</p> <p>25 Q. Did you receive this document after</p>	<p style="text-align: right;">228</p> <p>1 authoritative impact of this report to Congress?</p> <p>2 MR. BARNES: Objection as to form.</p> <p>3 Q. Let me restate it. What, if any, is</p> <p>4 your opinion regarding the authority or the</p> <p>5 authoritativeness of this report to Congress?</p> <p>6 A. Well, if you -- do you mean the</p> <p>7 accuracy of it? Authoritative is --</p> <p>8 Q. How about the -- what's your</p> <p>9 understanding regarding the purpose of this report?</p> <p>10 A. Well, the controller general has the</p> <p>11 responsibility to provide information to Congress</p> <p>12 and to the executive branch concerning different</p> <p>13 programs, different areas of regulation, over a</p> <p>14 broad spectrum, not just environmental. And I used</p> <p>15 it as a document -- as a factual document.</p> <p>16 Q. Do you mean to say that you took the</p> <p>17 assertions in this document as true?</p> <p>18 A. Yes, I presume that they -- that the</p> <p>19 controller general -- and I believe the GAO is part</p> <p>20 of -- did some of the work here -- that they did</p> <p>21 their research, and did the interviews that they</p> <p>22 said they did, and wrote what they found.</p> <p>23 Q. Is this -- to your knowledge, is a</p> <p>24 report to Congress, by the government accounting</p> <p>25 office, used by Congress to inform their statutes or</p>
<p style="text-align: right;">227</p> <p>1 your expert report had already been submitted in</p> <p>2 this case?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Put it aside.</p> <p>5 (Report to Congress dated 12/19/78 is</p> <p>6 marked as Exhibit Goldstein-9 for Identification.)</p> <p>7 Q. Do you recognize this document?</p> <p>8 A. Yes.</p> <p>9 Q. Can you describe what it is?</p> <p>10 A. It's a report to the Congress from</p> <p>11 the controller general of the United States</p> <p>12 entitled, how to dispose of hazardous waste, a</p> <p>13 serious question that needs to be resolved. Dated</p> <p>14 December 19, 1978.</p> <p>15 Q. Okay. Did you use this document in</p> <p>16 preparing your expert report in this case?</p> <p>17 A. Yes.</p> <p>18 Q. How did you use this document in</p> <p>19 preparing your expert report?</p> <p>20 A. The report provides reference</p> <p>21 footnotes to where I used this document, but it is</p> <p>22 part of the state-of-the-art section for the</p> <p>23 national program and of the state programs, New</p> <p>24 Jersey and Pennsylvania programs.</p> <p>25 Q. What's your understanding of the</p>	<p style="text-align: right;">229</p> <p>1 their proposed legislation or something else?</p> <p>2 MR. BARNES: Objection as to form.</p> <p>3 A. Could you rephrase, please?</p> <p>4 Q. Well, to your knowledge, what is the</p> <p>5 purpose of the controller general reporting to</p> <p>6 Congress?</p> <p>7 MR. BARNES: Objection as to form.</p> <p>8 A. I can't tell you what the purpose is.</p> <p>9 What I could do is read the report and draw the --</p> <p>10 just read it and draw the conclusions that they're</p> <p>11 trying to raise a red flag concerning the hazardous</p> <p>12 waste program.</p> <p>13 Q. And do you know what -- I'm sorry.</p> <p>14 A. I was just going to say around the</p> <p>15 country.</p> <p>16 Q. Do you know if they have a particular</p> <p>17 agenda in doing so?</p> <p>18 MR. BARNES: Objection as to form.</p> <p>19 A. Again, I have some knowledge of what</p> <p>20 GAO's responsibilities are. I'm not sure if this</p> <p>21 was directed by anyone in particular, or if they did</p> <p>22 it just as part of their duty and their job</p> <p>23 assignment. So I can't answer that.</p> <p>24 Q. Did you read this entire report to</p> <p>25 Congress in preparing your expert report?</p>

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<p style="text-align: right;">230</p> <p>1 A. Yes.</p> <p>2 Q. All right.</p> <p>3 (Document entitled, Mid-Atlantic</p> <p>4 Superfund, is marked as Exhibit Goldstein-10 for</p> <p>5 Identification.)</p> <p>6 Q. I'm handing you what's been marked as</p> <p>7 Goldstein-10. Do you recognize this document?</p> <p>8 A. Yes.</p> <p>9 Q. Can you describe what it is?</p> <p>10 A. It's a document off the -- off a</p> <p>11 website. It's a U.S. EPA website, subheading,</p> <p>12 Mid-Atlantic Superfund, sub-subheading, Boarhead</p> <p>13 Farms.</p> <p>14 Q. Did you use this document in</p> <p>15 preparing your expert report in this case?</p> <p>16 A. No.</p> <p>17 Q. Did you obtain this document yourself</p> <p>18 from the Internet?</p> <p>19 A. No. Mr. Waring did.</p> <p>20 Q. And at some point, did Mr. Waring</p> <p>21 give you this document?</p> <p>22 A. Yes.</p> <p>23 Q. And do you recall when that was?</p> <p>24 A. Probably at that meeting that we</p> <p>25 discussed, after the e-mail, where he said, come see</p>	<p style="text-align: right;">232</p> <p>1 A. He probably gave me all the documents</p> <p>2 that he had in his possession for the several weeks</p> <p>3 that he and Mr. Sabino were trading calls and</p> <p>4 information.</p> <p>5 Q. All right. Did anything in this</p> <p>6 document form a basis of anything in your expert</p> <p>7 report?</p> <p>8 A. No.</p> <p>9 Q. All right. The last one, I think --</p> <p>10 actually, there's two more.</p> <p>11 (Multi-page document consisting of</p> <p>12 handwritten notes is marked as Exhibit Goldstein-12</p> <p>13 for Identification.)</p> <p>14 Q. I'm handing you what's been</p> <p>15 marked as Goldstein-12.</p> <p>16 MR. BARNES: Just for the record,</p> <p>17 this is several documents?</p> <p>18 MS. MOONEY: Yes. It's a series of</p> <p>19 several documents, all consisting of handwritten</p> <p>20 notes.</p> <p>21 Q. The first two pages of this document</p> <p>22 have been clipped together, and at the top left-hand</p> <p>23 corner appears, Ransom Environmental Consultants,</p> <p>24 Inc.</p> <p>25 Do you see that?</p>
<p style="text-align: right;">231</p> <p>1 me about this. I think that's when I got introduced</p> <p>2 to the Boarhead Farms site, and he may have handed</p> <p>3 me this.</p> <p>4 Q. Do you know the purpose of his giving</p> <p>5 you this document?</p> <p>6 A. It's -- this type of document that's</p> <p>7 on the EPA website is a very general description of</p> <p>8 the -- of any superfund site around the country.</p> <p>9 This one happens to be on Boarhead</p> <p>10 Farms. So it gives a little bit of background on</p> <p>11 the superfund site itself.</p> <p>12 Q. Did you read this entire document?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 (Letter dated 7/5/05 is marked as</p> <p>16 Exhibit Goldstein-11 for Identification.)</p> <p>17 Q. I'm handing you what's been marked as</p> <p>18 Goldstein-11. Did you receive this document?</p> <p>19 A. Did I receive the document?</p> <p>20 Q. Yes.</p> <p>21 A. No.</p> <p>22 Q. Do you know why it was in your file?</p> <p>23 A. I presume Mr. Waring gave it to me.</p> <p>24 Q. Do you know why he would give it to</p> <p>25 you?</p>	<p style="text-align: right;">233</p> <p>1 A. Yes.</p> <p>2 Q. Do you recognize the first three-page</p> <p>3 document of Goldstein-12?</p> <p>4 A. Yes.</p> <p>5 Q. Can you describe what it is?</p> <p>6 A. It's my notes from the review of the</p> <p>7 different New Jersey regulations of the time period</p> <p>8 we've been talking about.</p> <p>9 Q. Are these notes that you took on the</p> <p>10 New Jersey regulations that you had in your own</p> <p>11 possession?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So did you make these notes in</p> <p>14 your office or wherever your New Jersey regulations</p> <p>15 were?</p> <p>16 A. Yes. My office, yes.</p> <p>17 Q. Okay. On the second page, at the</p> <p>18 top, it says 6/30/74 supplement.</p> <p>19 What does that refer to?</p> <p>20 A. The date of the regulation that I was</p> <p>21 looking at.</p> <p>22 Q. Is it the supplement to the code?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And then underneath that it</p> <p>25 says -- it looks like, hazardous waste defined -- is</p>

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<p style="text-align: right;">234</p> <p>1 that "some" -- that word "some"?</p> <p>2 A. (No response.)</p> <p>3 Q. It says, 1.4B has waste defined same?</p> <p>4 A. I think it's "same".</p> <p>5 Q. Is it "same"? I just wanted to</p> <p>6 double-check.</p> <p>7 Is this your handwriting?</p> <p>8 A. Yes, this is mine.</p> <p>9 Q. And in the next line, 2.6, is the</p> <p>10 responsibility of generator same, too?</p> <p>11 A. Correct.</p> <p>12 Q. In the middle of this page, you note</p> <p>13 that the disposal requirements -- no chemical waste</p> <p>14 shall be deposited in direct or indirect contact</p> <p>15 with surround (sic) water of the state.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Wouldn't the waste disposal operation</p> <p>19 DeRewal purportedly had at Wissinoming have violated</p> <p>20 this provision?</p> <p>21 A. Well, the -- several things. First,</p> <p>22 it was -- Wissinoming was in Pennsylvania, so this</p> <p>23 is New Jersey rules.</p> <p>24 If the waste was treated -- the acid</p> <p>25 was treated, so it was neutralized, arguably, it's</p>	<p style="text-align: right;">236</p> <p>1 depositions were mailed by Tom. The rest were</p> <p>2 copied here, and then taken back to the office. And</p> <p>3 all these notes are just my office notes.</p> <p>4 Q. Okay. Did you rely on these notes in</p> <p>5 generating your expert report in this case?</p> <p>6 A. Yes. The notes are almost</p> <p>7 word-for-word statements out of the depositions. So</p> <p>8 the answer is yes.</p> <p>9 Q. Okay. Put that to the side.</p> <p>10 (NJAC 7:26 provisions is marked as</p> <p>11 Exhibit Goldstein-13 for Identification.)</p> <p>12 Q. I'm handing you what's been marked as</p> <p>13 Goldstein-13. Do you recognize this document?</p> <p>14 A. Yes.</p> <p>15 Q. Can you describe what it is?</p> <p>16 A. It's a series of iterations of the</p> <p>17 New Jersey solid waste rules from the time period of</p> <p>18 July 1st, 1978 till December 31st, 1979, NJAC 7:26.</p> <p>19 Q. Did you use this document in</p> <p>20 preparing your expert report?</p> <p>21 A. I certainly read the document. I'm</p> <p>22 not quite sure if I footnoted anything. I'd have to</p> <p>23 go check.</p> <p>24 Q. But this was one of the documents</p> <p>25 that you reviewed in preparing your expert report?</p>
<p style="text-align: right;">235</p> <p>1 no longer a chemical waste. So it would be allowed</p> <p>2 to be discharged under the Clean Water Act</p> <p>3 requirements. But that's what I copied out of the</p> <p>4 1973 rules, so --.</p> <p>5 Q. The fourth page of Goldstein-12 is</p> <p>6 headed, I think -- correct me if I'm wrong --</p> <p>7 deposition of David Michelman?</p> <p>8 A. That's correct.</p> <p>9 Q. Do you see that?</p> <p>10 A. Uh-hum.</p> <p>11 Q. Did you take these notes?</p> <p>12 A. Yes.</p> <p>13 Q. Did you take these notes in reviewing</p> <p>14 the depositions here at Wolff and Samson?</p> <p>15 A. No. I copied the transcript, took it</p> <p>16 to my office, and did this review in my office.</p> <p>17 Q. And does the same hold for the</p> <p>18 remaining notes on the following pages?</p> <p>19 A. (No response.)</p> <p>20 Q. You can take your time looking</p> <p>21 through them.</p> <p>22 A. Yes. These are all documents that I</p> <p>23 copied at Wolff and Samson, or were sent to me --</p> <p>24 were sent to Drew by Mr. Sabino.</p> <p>25 I think the Landmesser and Leuzarder</p>	<p style="text-align: right;">237</p> <p>1 A. That is correct.</p> <p>2 Q. Okay. Did you read this entire</p> <p>3 document?</p> <p>4 A. No.</p> <p>5 Q. Do you recall what portions of this</p> <p>6 document you read?</p> <p>7 A. I read -- I went by heading, and if</p> <p>8 the heading described a point that I needed to learn</p> <p>9 about -- like the definitions of the generator,</p> <p>10 transporter or disposer of hazardous waste -- I</p> <p>11 would read it.</p> <p>12 If it dealt with municipal waste or</p> <p>13 radioactive waste, or the definitions I didn't care</p> <p>14 about, I skipped over it.</p> <p>15 Q. So is it fair to say that you focused</p> <p>16 in on the hazardous waste regulations and did not</p> <p>17 focus on the rest?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. Put that aside.</p> <p>20 (New Jersey solid waste regulations,</p> <p>21 1957 through '78, is marked as Exhibit Goldstein-14</p> <p>22 for Identification.)</p> <p>23 Q. I'm showing you what's been marked as</p> <p>24 Goldstein-14. Do you recognize this document?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">238</p> <p>1 Q. Can you describe what it is?</p> <p>2 A. It's a compendium of different</p> <p>3 iterations of the New Jersey solid waste regulations</p> <p>4 from May 10th, 1957 till February 27th, 1978.</p> <p>5 Q. Okay. And did you compile this</p> <p>6 document?</p> <p>7 A. Not me personally, no.</p> <p>8 Q. Did someone else compile it?</p> <p>9 A. Someone else under my command --</p> <p>10 charge, when I was at Sadat Associates, did it.</p> <p>11 Q. Did you use this document in</p> <p>12 preparing your expert report?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. How did you use this document</p> <p>15 in preparing your expert report?</p> <p>16 A. I remembered certain of the</p> <p>17 regulations in the preparation of the report,</p> <p>18 especially the part of how the hazardous waste</p> <p>19 program evolved over time in New Jersey.</p> <p>20 Q. Okay. In the middle of this</p> <p>21 document -- and I -- you know, can't really be any</p> <p>22 more specific than that -- there is a section that's</p> <p>23 headed -- it's about 40 percent through -- I am</p> <p>24 going to direct you to a heading -- or a page in</p> <p>25 this document headed, provisions in effect from</p>	<p style="text-align: right;">240</p> <p>1 on in the document, to the header, provisions in</p> <p>2 effect from November 1st, 1976 to July 20, 1977.</p> <p>3 It's the next heading in the big</p> <p>4 document.</p> <p>5 MR. BARNES: Incorporation of</p> <p>6 amendments effective November 1st, 1976?</p> <p>7 MS. MOONEY: That's the one.</p> <p>8 A. I got it.</p> <p>9 Q. Were these regulations in this</p> <p>10 document those that you relied upon for the solid</p> <p>11 waste management rules in effect in 1976 and 1977</p> <p>12 for purposes of your expert report?</p> <p>13 A. Yes.</p> <p>14 Q. Did you rely on any other versions of</p> <p>15 the New Jersey regulations pertaining to hazardous</p> <p>16 waste management in effect in 1976 and 1977, other</p> <p>17 than these documents?</p> <p>18 A. I don't believe so. The reason for</p> <p>19 my equipollence is that some of the later versions</p> <p>20 do have pages that are missing. This is not a</p> <p>21 complete set, as it were.</p> <p>22 There are some pages that are</p> <p>23 missing, so I may have looked at a later version to</p> <p>24 find out the -- that particular section, and</p> <p>25 depending on what the footnote is of that particular</p>
<p style="text-align: right;">239</p> <p>1 September 15, 1975 to November 1st, 1976, and it's</p> <p>2 about -- I should have marked it for you, but it's</p> <p>3 about 40 percent of the way through.</p> <p>4 MR. BARNES: Is that the correct</p> <p>5 page?</p> <p>6 MS. MOONEY: That is the correct</p> <p>7 page.</p> <p>8 A. I found it.</p> <p>9 Q. Do you have that page, Mr. Goldstein?</p> <p>10 A. Provisions in effect from September</p> <p>11 15, 1975 to November 1st, 1976.</p> <p>12 Q. Yes. That's it.</p> <p>13 A. Okay.</p> <p>14 Q. The regulations, after this heading,</p> <p>15 were these regulations in effect for part of the</p> <p>16 1976 to 1977 period that your expert report deals</p> <p>17 with?</p> <p>18 A. Yes.</p> <p>19 Q. And did you refer to these -- this</p> <p>20 copy of these regulations that appears in this</p> <p>21 report for information about the regulations of</p> <p>22 1976?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. I'm going to direct you to a</p> <p>25 page -- I don't know -- about maybe 25 pages further</p>	<p style="text-align: right;">241</p> <p>1 section, you can tell when it was adopted. So I --</p> <p>2 with that caveat, this is what I used.</p> <p>3 Q. Okay. All right. During the course</p> <p>4 of our deposition, we were talking about section</p> <p>5 4.2.2, and we were going to flag a discussion of the</p> <p>6 changes in the 1974 regulations from prior years.</p> <p>7 Until -- we actually might have gone over this. Let</p> <p>8 me just -- I think we covered this.</p> <p>9 MR. BARNES: Do you want to take a</p> <p>10 few minutes to look at your notes?</p> <p>11 MS. MOONEY: Yes. I'll let Jeff go.</p> <p>12 Q. The one thing I do want to ask you is</p> <p>13 just to clarify, in Appendix B, the report to</p> <p>14 Congress discrepancy on the dates. I forgot to do</p> <p>15 that when I had that exhibit.</p> <p>16 But you'll recall, Mr. Goldstein,</p> <p>17 that you noted that the year of one of the</p> <p>18 congressional reports listed in Appendix B was</p> <p>19 correction incorrect. If you could just go back and</p> <p>20 look at what exhibit was entered showing the</p> <p>21 corrected --</p> <p>22 A. It would be --</p> <p>23 Q. Let me show you, Mr. Goldstein,</p> <p>24 Exhibit Number 9 in this case.</p> <p>25 Do you think you could identify, on</p>

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<p style="text-align: right;">242</p> <p>1 Appendix B, which of these reports corresponds to 2 Exhibit 9?</p> <p>3 A. Yes. The fifth item on the document 4 list is this report to Congress, how to dispose of 5 hazardous waste. The date on the document list is 6 inaccurate. It should say December 19, 1978.</p> <p>7 Q. So in Appendix B, the fifth document 8 date of January 23, 1979 should be changed to 9 December 19, 1978.</p> <p>10 Is that right?</p> <p>11 A. Correct.</p> <p>12 MS. MOONEY: Okay. Why don't you go, 13 Jeff?</p> <p>14 Thank you very much, Mr. Goldstein. 15 I might come back with a few questions. I believe 16 other counsel have some questions for you.</p> <p>17 CROSS-EXAMINATION BY MR. PETTIT:</p> <p>18 Q. Hi, Mr. Goldstein. I'm Jeffrey 19 Pettit. I represent Ashland. I have a couple of 20 questions about your report, if you could pull that 21 out.</p> <p>22 If you turn to page three --</p> <p>23 A. Okay.</p> <p>24 Q. -- I'm looking at the sentence about 25 three-quarters of the way down, the unbeknownst to</p>	<p style="text-align: right;">244</p> <p>1 Q. Okay. Now, I want to focus on one 2 other phrase in that sentence, where it talks about 3 the transportation of some of that waste stream to 4 Boarhead.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. All right. Did you know whether you 8 were referring to the waste stream from Ashland or 9 Diaz or both?</p> <p>10 Do you have -- did you have any idea 11 what you were referring to there?</p> <p>12 A. No.</p> <p>13 Q. Okay. Page -- if you could turn to 14 page 15, the last paragraph, the first sentence 15 refers to Ciba-Geigy.</p> <p>16 Did you have any knowledge, based on 17 any source, about the nature of the relationship 18 between DeRewal and Ciba-Geigy at this time?</p> <p>19 MR. BARNES: Objection as to form.</p> <p>20 A. I recall that Ciba-Geigy was -- had a 21 similar type of acid waste stream, and they were the 22 first -- they were a user of DeRewal -- DeRewal took 23 their waste stream and treated it -- presumably 24 treated it at Wissinoming, and that's how the 25 contact was made to AETC.</p>
<p style="text-align: right;">243</p> <p>1 these two generators and AETC, that sentence.</p> <p>2 A. Yes.</p> <p>3 Q. You testified before about the source 4 for that statement, but this actually has a couple 5 factual statements. I just want to confirm that 6 your sources are the same for each component.</p> <p>7 First, the first statement is that 8 the DeRewal Chemical Company improperly and secretly 9 transported some of the waste stream to some 10 property owned by DeRewal.</p> <p>11 The sources you described earlier in 12 your testimony would be the source for that 13 statement?</p> <p>14 A. Yes.</p> <p>15 Q. Then it says, where the waste streams 16 were allegedly discharged to the ground without 17 treatment -- again, your source is the source that 18 you stated previously; am I right?</p> <p>19 A. You'll have to refresh me on what 20 source that I referred to.</p> <p>21 Q. I think you referred to answers to -- 22 the plaintiff's answers to discovery posed by AETC, 23 and then the summary judgment?</p> <p>24 A. Yeah, the summary judgment motion, 25 and the exhibits to that, yes.</p>	<p style="text-align: right;">245</p> <p>1 Q. Okay. Now, just the same paragraph, 2 the next sentence, it starts, AET saw the 3 opportunity --</p> <p>4 A. Yes.</p> <p>5 Q. -- and you reference a disposal 6 agreement between Ashland and DeRewal.</p> <p>7 Are you aware whether there was ever 8 a written agreement between Ashland and DeRewal for 9 disposal?</p> <p>10 A. I don't believe I've ever seen one.</p> <p>11 Q. Okay. And are you aware -- or did 12 you see any agreement between Ashland and AETC over 13 this brokering -- what you described as a brokering 14 relationship?</p> <p>15 A. Well, I did not see a formal 16 contract, but there were letters from AETC to 17 Ashland that said, I will do the following: I 18 will -- that the waste stream would be taken care of 19 for a fee of "X" -- there were different waste 20 streams and different fees.</p> <p>21 I don't know if that constitutes an 22 agreement, but there were letters to that effect.</p> <p>23 MR. PETTIT: Okay. That's all the 24 questions I have. Thank you.</p> <p>25 MR. BARNES: We're out at 5:30, which</p>

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<p style="text-align: right;">246</p> <p>1 is when I think we agreed to stop.</p> <p>2 Does anybody have any other</p> <p>3 questions?</p> <p>4 CROSS-EXAMINATION BY MR. COOLEY:</p> <p>5 Q. Good afternoon. I'll be short.</p> <p>6 Again, I'm Seth Cooley. I represent Flexible</p> <p>7 Circuits.</p> <p>8 You spoke several times during your</p> <p>9 testimony, I believe -- I don't have a transcript --</p> <p>10 and, please, I'm not trying to quote you, so correct</p> <p>11 me if I'm wrong in any respect -- but on the first</p> <p>12 point, I can refer you to opinion number two, where</p> <p>13 you make reference, in your text there, to highly</p> <p>14 acidic waste streams, and I think a few times today,</p> <p>15 you referred to strong acid waste or strong waste or</p> <p>16 highly acidic. Those kinds of references.</p> <p>17 A. Sure.</p> <p>18 Q. I'm just wondering if you can -- if</p> <p>19 you can tell us whether, from your review of any</p> <p>20 documents, or any information you've obtained in the</p> <p>21 course of your work leading up to your report,</p> <p>22 whether you can quantify that in terms of pH.</p> <p>23 Did you see any references to what</p> <p>24 the acidity of any of these wastes that you</p> <p>25 characterized with these terms might have been?</p>	<p style="text-align: right;">248</p> <p>1 neutralization sufficient to permit the discharge to</p> <p>2 the river.</p> <p>3 A. Yes.</p> <p>4 Q. Okay. I just wonder what you meant</p> <p>5 by sufficient?</p> <p>6 In other words, how much</p> <p>7 neutralization, or how neutral, if you could</p> <p>8 elaborate on that?</p> <p>9 A. The -- there were requirements, under</p> <p>10 permits that were issued either by the federal</p> <p>11 government or by the state, for the discharge of</p> <p>12 wastewater into a surface water body, under the</p> <p>13 Clean Water Act and the NJPDES program.</p> <p>14 As part of those permits, the pH was</p> <p>15 usually one of the parameters regulated, and I'm</p> <p>16 pretty sure that the limitations for discharge to</p> <p>17 surface water were from pH six to pH nine -- no, I'm</p> <p>18 certainly not -- I don't have the DeRwal permit in</p> <p>19 front of me, and I don't know what it said, but</p> <p>20 that's my recollection of what the typical pH was.</p> <p>21 So that was the genesis of my</p> <p>22 comment.</p> <p>23 MR. COOLEY: I understand. That's</p> <p>24 it. Thank you.</p> <p>25 MR. BARNES: Does anybody have any</p>
<p style="text-align: right;">247</p> <p>1 A. There were several documents that</p> <p>2 referred to the composition of the waste stream, and</p> <p>3 I remember it was 83 percent, plus or minus, of</p> <p>4 sulfuric acid, and five percent nitric acid, and</p> <p>5 then a few other components.</p> <p>6 So that certainly indicates that it's</p> <p>7 a strong waste stream, just from knowledge of</p> <p>8 chemistry.</p> <p>9 I also recall there was a document</p> <p>10 from AETC regarding the -- what was called a paper</p> <p>11 analysis, where somebody did a lab test and it</p> <p>12 was -- but I don't recall what the pH was on it.</p> <p>13 I mean, that's the one that I have,</p> <p>14 and if it's -- if it's not there, then I probably</p> <p>15 just made the inference from the concentration of</p> <p>16 sulfuric acid in the waste stream.</p> <p>17 Q. Okay. I understand. Secondly -- and</p> <p>18 lastly -- you testified at one point a little bit</p> <p>19 about your understanding of the neutralization</p> <p>20 process at the Wissinoming facility; lime or caustic</p> <p>21 material being used to neutralize acid waste, I</p> <p>22 think, was something you referenced --</p> <p>23 A. Yes.</p> <p>24 Q. -- I can't quote you -- but -- and I</p> <p>25 think you said that -- something about</p>	<p style="text-align: right;">249</p> <p>1 other questions?</p> <p>2 This deposition is now closed, and I</p> <p>3 think we all agree that we're done.</p> <p>4 (Witness excused.)</p> <p>5 (Deposition is concluded at 5:30</p> <p>6 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 CERTIFICATE</p> <p>2</p> <p>3 I, DUBRAVKA DE PEW, a Notary Public and</p> <p>4 Certified Court Reporter of the State of New Jersey,</p> <p>5 do hereby certify that prior to the commencement of</p> <p>6 the examination, KENNETH GOLDSTEIN, P.E., was duly</p> <p>7 sworn by me to testify to the truth, the whole truth</p> <p>8 and nothing but the truth.</p> <p>9 I DO FURTHER CERTIFY that the foregoing is a</p> <p>10 verbatim transcript of the testimony as taken</p> <p>11 stenographically by and before me at the time, place</p> <p>12 and on the date hereinbefore set forth, to the best</p> <p>13 of my ability.</p> <p>14 I DO FURTHER CERTIFY that I am neither a</p> <p>15 relative of nor employee nor attorney nor counsel</p> <p>16 for any of the parties to this action, and that I am</p> <p>17 neither a relative nor employee of such attorney or</p> <p>18 counsel, and that I am not financially interested in</p> <p>19 the action.</p> <p>20</p> <p>21</p> <p>22 DUBRAVKA DePEW, CCR</p> <p>23 NOTARY PUBLIC OF THE STATE OF NEW JERSEY</p> <p>24 MY COMMISSION EXPIRES JANUARY 5th, 2008</p> <p>25 CSR Number: XI00929</p> <p>Dated: December 14, 2006</p>	<p>1 ERRATA SHEET</p> <p>2 PAGE LINE # CHANGE</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 INSTRUCTIONS TO WITNESS</p> <p>2</p> <p>3 Please read your deposition over</p> <p>4 carefully and make any necessary corrections. You</p> <p>5 should state the reason in the appropriate space on</p> <p>6 the Errata Sheet for any corrections that are made.</p> <p>7 After doing so, please sign the Errata</p> <p>8 Sheet and date it.</p> <p>9 You are signing same subject to the</p> <p>10 changes you have noted on the Errata Sheet, which</p> <p>11 will be attached to your deposition.</p> <p>12 It is imperative that you return the</p> <p>13 original Errata Sheet to the deposing attorney</p> <p>14 within thirty (30) days of receipt of the deposition</p> <p>15 transcript by you. If you fail to do so, the</p> <p>16 deposition transcript may be deemed to be accurate</p> <p>17 and may be used in court.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3 I, _____, do</p> <p>4 hereby certify that I have read the foregoing pages,</p> <p>5 _____, and that the same is a</p> <p>6 correct transcription of the answers given by me to</p> <p>7 the questions therein propounded, except for the</p> <p>8 corrections or changes in form or substance, if any,</p> <p>9 noted in the attached Errata Sheet.</p> <p>10</p> <p>11 _____</p> <p>12 DATE:</p> <p>13</p> <p>14</p> <p>15 Subscribed and sworn to before me</p> <p>16 on this _____ day of</p> <p>17 _____, 2006</p> <p>18 My Commission Expires _____</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 Notary Public</p> <p>23</p> <p>24</p> <p>25</p>

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1 LAWYER'S NOTES

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